

**Minutes of 1208th Meeting of the
Town Planning Board held on 13.9.2019**

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 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

Dr C.H. Hau

Mr Thomas O.S. Ho

Mr Alex T.H. Lai

Professor T.S. Liu

Miss Winnie W.M. Ng

Ms Sandy H.Y. Wong

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr K.W. Leung

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

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

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

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
Miss Fiona S.Y. Lung

Secretary

Absent with Apologies

Mr H.W. Cheung

Mr Ivan C.S. Fu

Dr Frankie W.C. Yeung

Mr Wilson Y.W. Fung

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

In Attendance

Assistant Director of Planning/Board

Ms April K.Y. Kun

Chief Town Planner/Town Planning Board

Mr L.K. Wong

Senior Town Planner/Town Planning Board

Ms Christine C.M. Cheung

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1207th Meeting held on 23.8.2019

[The item was conducted in Cantonese.]

1. The minutes of the 1207th Meeting was confirmed without amendment.

Agenda Item 2

Matters Arising

[The item was conducted in Cantonese.]

(i) Town Planning Appeal Decision Received

Town Planning Appeal No. 3 of 2018

Proposed House (New Territories Exempted House - Small House) in “Green Belt” zone, Lots 362 S.A ss.1 and 362 S.A ss.2 in D.D. 22, Lai Chi Shan Village, Tai Po
Application No. A/TP/628

[Open Meeting]

2. The Secretary reported that the subject appeal was against the Town Planning Board (the Board)’s decision to reject on review an application (No. A/TP/628) for a proposed house (New Territories Exempted House-Small House) at a site zoned “Green Belt” (“GB”) on the Tai Po Outline Zoning Plan (OZP). The appeal was heard by the Town Planning Appeal Board (TPAB) on 24 and 25.10.2018 and 24.6.2019. On 23.8.2019, the appeal was dismissed by TPAB for the following reasons:

Land available for Small House development

- (a) with reference to the methodology adopted by the Planning Department (PlanD) based on the net developable area and PlanD’s submission of supplementary information upon the request of TPAB, land available within the “Village Type Development” (“V”) zone of Lai Chi Shan Village was capable to meet the

outstanding Small House applications and each parcel of land was sufficient to accommodate at least one Small House. As such, there was no shortage of land within the “V” zone of the concerned village;

Planning intention of land use zoning

- (b) the Appellant failed to provide strong justifications warranting a departure from the planning intention of the “GB” zone in that there was a general presumption against development. Approval of the application would set an undesirable precedent for similar applications within the “GB” zone, leading to a degradation in the existing landscape character of the surrounding areas; and

No unfair treatment to the Appellant

- (c) the Appellant failed to demonstrate that the Board had treated the Appellant’s planning application unfairly after the adoption of the cautious approach in considering planning applications for Small House development.

3. Members noted the decision of TPAB.

(ii) New Town Planning Appeal Received

Town Planning Appeal No. 5 of 2019

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

Application No. A/K18/325

[Open Meeting]

4. The Secretary reported that the application site was located in Kowloon Tong. The appeal was submitted by Golden Fook Co. Limited (Golden Fook) with Woo Kwan Lee & Lo as its representative. MVA Hong Kong Ltd. (MVA) was one of the applicant’s consultants. The following Members had declared interests in the item:

Mr Ivan C.S. Fu]	having current business dealings with MVA
Mr Thomas O.S. Ho]	

- Mr K.K. Cheung] their firm having past business dealings with
Mr Alex T.H. Lai] Golden Fook and MVA
- Mr Franklin Yu - having past business dealings with MVA
- Mr Daniel K.S. Lau - being an ex-employee of Hong Kong Housing
Society, which having current business dealings
with Woo Kwan Lee & Lo
- Mr H.W. Cheung] owning a property/properties in Kowloon Tong
Mr Peter K.T. Yuen]
Miss Winnie W.M. Ng]
- Mr David Y.T. Lui - co-owning with spouse a flat in Yau Yat Chuen
- Dr Lawrence W.C. Poon - living in the quarters of the City University of
Hong Kong in Kowloon Tong
- Mr Stanley T.S. Choi - his spouse being a director of a company which
owned properties in Kowloon Tong

5. Members noted that Messrs Ivan C.S. Fu, Daniel K.S. Lau and H.W. Cheung had tendered apologies for being unable to attend the meeting and Messrs Franklin Yu, Alex T.H. Lai and Miss Winnie W.M. Ng had not yet arrived to join the meeting. Members agreed that as the item was to report the receipt of an appeal case and no discussion was required, Members who had declared interests could be allowed to stay in the meeting.

6. The Secretary reported that the application was rejected by the Board for the following reasons:

- (a) the development was not in line with the planning intention of the “Residential (Group C) 3” (“R(C)3”) zone, which was for low to medium-rise, low-density residential developments;
- (b) the development was located at Flint Road/Chester Road with narrow width and

busy traffic at school peak hours. The applicant failed to demonstrate the implementability and enforceability of the proposed traffic mitigation measures; and

- (c) approval without implementable and enforceable traffic mitigation measures would set an undesirable precedent for similar applications in the area. The cumulative effect would aggravate the traffic congestion problem of the area at school peak hours.

7. 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) Abandonment of Town Planning Appeal

Town Planning Appeal No. 4 of 2018 (4/18)

Proposed House (New Territories Exempted House – Small House) in “Agriculture” (“AGR”) Zone, Lot 440 S.D in D.D. 37, Man Uk Pin Village, Sha Tau Kok, New Territories

Application No. A/NE-MUP/128

[Open Meeting]

8. The Secretary reported that an appeal had been abandoned by the appellant on his own accord. Town Planning Appeal No. 4/18 was received by the Appeal Board Panel (Town Planning) (ABP) on 27.3.2018 against the decision of the Town Planning Board on 19.1.2018 to reject on review an application (No. A/NE-MUP/128) for proposed house (New Territories Exempted House – Small House) at a site zoned “Agriculture” (“AGR”) on the Man Uk Pin Outline Zoning Plan.

9. The appeal was abandoned by the appellant on 28.8.2019. On 9.9.2019, the ABP formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

10. Members noted the abandonment of the appeal.

(iv) Updated Appeal Statistics

11. The Secretary reported that as at 9.9.2019, 9 cases were yet to be heard by the Town Planning Appeal Board. Details of the appeal statistics were as follows:

Allowed	:	36
Dismissed	:	161
Abandoned/Withdrawn/Invalid	:	203
Yet to be Heard	:	9
Decision Outstanding	:	0
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Total	:	409

(v) [Confidential Item] [Closed Meeting]

12. The item was recorded under confidential cover.

Sha Tin, Tai Po & North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LK/119

Proposed Temporary Open Storage of Building Materials with Ancillary Office for a Period of 3 Years in “Agriculture” and “Village Type Development” Zones, Lots 2452 S.B (Part) and 2467 (Part) in D.D. 39 and Adjoining Government Land, Shek Chung Au (TPB Paper No. 10577)

[The item was conducted in Cantonese.]

Presentation and Question Sessions

13. Members noted that the applicant had indicated that he would not attend the meeting.

14. The following representative of the Planning Department (PlanD) was invited to the meeting at this point:

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

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

16. 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) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10577 (the Paper).

[Messrs Elvis W.K. Au and Ricky W.Y. Yu arrived to join the meeting during DPO's presentation.]

17. As the presentation from DPO/STN had been completed, the Chairperson invited questions from Members. Members had no question on the review application. The Chairperson thanked the representative of the Government for attending the meeting and DPO/STN left the meeting at this point.

Deliberation Session

18. Members generally considered that there was no change in the planning circumstances since the consideration of the subject application by the RNTPC and there was no reason to deviate from the RNTPC's decision.

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

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

Development” (“V”) zone which 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. It is also not in line with the planning intention of the “Agriculture” (“AGR”) 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 such planning intention, even on a temporary basis;

- (b) the application does not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13E) in that there is no previous planning approval for open storage use granted at the site; there are adverse comments from the relevant government departments and local objections against the application; and the applicant has failed to demonstrate that the development would have no adverse traffic, environmental and drainage impacts on the surrounding areas; and
- (c) the approval of the application would set an undesirable precedent for other similar applications within the “AGR” and “V” zones. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.”

[Mr David Y.T. Lui arrived to join the meeting at this point.]

Agenda Item 4 and 5

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-TT/9

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone, Government land in D.D. 289, Ko Tong, Tai Po

Request for Deferment of Review of Application No. A/NE-TT/10

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone, Government land in D.D. 289, Ko Tong, Tai Po

(TPB Paper No. 10580)

[The item was conducted in Cantonese.]

20. Members noted that the two applications could be considered together as they were similar in the nature, and the application sites (the Sites) were adjoining one another and falling within the same “Green Belt” (“GB”) zone.

21. The Secretary reported that the applicants’ representative requested on 30.8.2019 deferment of the consideration of the review application for two months to allow time to liaise with relevant departments and for preparation of further information to address their comments. This was the second time that the applicants requested deferment of the review hearing.

22. 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 applicants needed more time to prepare further information in support of the review applications, the deferment period was not indefinite, and the deferment would not affect the interests of other relevant parties.

23. After deliberation, the Board decided to defer a decision on the applications as requested by the applicants pending the submission of further information from the applicants. The Board agreed that the review applications should be submitted for its

consideration within three months from the date of receipt of further information from the applicants. If the further information submitted by the applicants was not substantial and could be processed within a shorter time, the review applications could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicants that two months were allowed for preparation of the submission of the further information. Since it was the second deferment and a total of four months had been allowed for preparation of submission of further information, no further deferment would be granted unless under very special circumstances.

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

Kowloon District

Agenda Item 6

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/K18/331

Proposed Minor Relaxation of Building Height Restriction from 3 to 4 storeys to Allow for One Storey of Basement for Two Car Parking Spaces and Ancillary Plant Room for the Permitted House Development in "Residential (Group C) 1" Zone, 7 Lincoln Road, Kowloon Tong, Kowloon

(TPB Paper No. 10578)

[The item was conducted in Cantonese.]

24. The Secretary reported that the following Members had declared interests on the item for having business dealings/ association with the applicant's consultants Kenneth To & Associates Limited (KTA) and Mr Ivan Ho and/or owning property in Kowloon Tong area:

Professor S.C. Wong (Vice-chairperson)	-	knowing Mr Ivan Ho as both of them were the directors of the Hong Kong Green Building Council
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- Mr H.W. Cheung]
Mr Peter K.T. Yuen] owning a property/properties in Kowloon Tong
Miss Winnie W.M. Ng]
- Mr David Y.T. Lui - co-owning with spouse a flat in Yau Yat Chuen
- Dr Lawrence W.C. Poon - living in the quarters of the City University of Hong Kong in Kowloon Tong
- Mr Stanley T.S. Choi - his spouse being a director of a company which owned properties in Kowloon Tong
- Mr. Daniel K.S. Lau - being the ex-employee of Hong Kong Housing Society which had current business dealings with KTA

25. Members noted that Messrs H.W. Cheung and Daniel K.S. Lau had tendered apologies for being unable to attend the meeting. As the quarters of Dr Lawrence W.C. Poon and the properties owned by Mr David Y.T. Lui and his spouse, Mr Peter K.T. Yuen, Miss Winnie W.M. Ng and the company of Mr Stanley T.S. Choi's spouse did not have a direct view of the Site and Professor S.C. Wong's interest was indirect, Members agreed that they should be allowed to stay in the meeting

Presentation and Question Sessions

26. The Government's and the applicant's representatives were invited to the meeting:

Planning Department (PlanD)

Ms Johanna W.Y. Cheng - District Planning Officer/Kowloon (DPO/K)

Applicant

KTA] Applicant's representatives

Mr Kenneth To]

Miss Kitty Wong]

Ivanho Architect Limited]
Mr Ivan Ho]
Miss Donna Hsiung]

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

28. With the aid of a PowerPoint presentation, Ms Johanna W.Y. Cheng, 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. 10578 (the Paper).

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

30. With the aid of a PowerPoint presentation, Mr Ivan Ho, the applicant's representative, made the following points in support of the review application:

- (a) the application for the minor relaxation of the building height restriction (BHR) was for a better building design. There would not be any increase in the gross floor area (GFA) under the current application;
- (b) the Site was located in the Kowloon Tong Garden Estate (KTGE) which was characterised by crescent streets, old trees and houses with distinctive design;
- (c) with the provision of a setback of 6m from Lincoln Road and Cumberland Road to meet the non-building area (NBA) requirement under the Kowloon Tong Outline Development Plan (ODP), the area available for building development was limited;
- (d) the proposal would maximise the greening opportunities within an overall greenery ratio of not less than 25%. In addition to at-grade planting, greenery would be incorporated into the building such as curvilinear planter

connecting different floors and planter strips along building facade;

- (e) a stepped terrace design with the upper part of the development further recessed from public roads was proposed, hence air and visual permeability for pedestrians on both Cumberland Road and Lincoln Road would be improved;
- (f) taking into account MPC's views, an alternative scheme with no underground car park and plant room provision had been prepared for comparison. As demonstrated in the alternative scheme, the at-grade planting area would be reduced substantially as the car parking spaces and the associated driveway were to be provided at-grade. In respect of BH, that of the alternative scheme would be about 16.2m as the ancillary plant rooms would be required to be placed on the rooftop of the house. If the ancillary plant rooms and car parking spaces were provided underground as proposed in the application, the BH above ground could be reduced from 16.2m to 13m and the roof level would be about 22.67mPD which was even lower than the existing house on the other side of Lincoln Road (i.e. 8 Lincoln Road);
- (g) the proposed basement size was not excessive. It was devised based on the functional, building services, geotechnical and structural design requirements of the proposed house. The disposition and extent of the proposed basement were well justified. The proposed basement size was similar to or even smaller than that of approved similar applications within the concerned "Residential (Group C)1" ("R(C)1") zone (i.e. ranging from 272m² to 586m²). The design of the proposed basement also included a void to allow light penetration and natural ventilation to the basement and reduce energy consumption for mechanical ventilation and lighting; and
- (h) there were 13 similar applications (involving 12 sites) for basement structure in the concerned "R(C)1" zone approved by the Board. The approval of the current application was in line with the Board's previous decisions.

[Mr Alex T.H. Lai and Ms Sandy H.Y. Wong arrived to join the meeting during the presentation.]

31. As the presentation from DPO/K, PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

Statutory Requirement of the Kowloon Tong Outline Zoning Plan (OZP)

32. The Chairperson and some Members enquired about the intention of imposing the statutory requirement of planning permission for the one storey basement for uses of car park and ancillary plant rooms in "R(C)1" on the OZP and the considerations involved in assessing similar applications. In response, Ms Johanna W.Y. Cheng, DPO/K, said that BHR of 3 storeys for "R(C)1" zone was stipulated on the OZP since 1993. In 2001, arising from a rezoning request for amendment of the BHR of a "R(C)1" site to include one level of basement, PlanD had conducted a review of the BHR of "R(C)1" zone on the Kowloon Tong OZP and the findings of the review were presented to the MPC on 2.11.2001. The MPC agreed that there should not be a blanket relaxation of BHR, but to allow for design flexibility and maintain the character of KTGE (with above ground BH maintained at 3 storey), a "minor relaxation clause" should be included in the Notes of OZP for the "R(C)1" zone to allow for provision of an additional basement level for car parking and/or ancillary plant room through planning application. The applications would be considered on individual merits to ensure no adverse impact on existing trees and character of KTGE.

33. In response to a Member's question, Ms Johanna W.Y. Cheng, DPO/K indicated that relevant assessment criteria for relaxation of BHR had been set out in the Explanatory Statement (ES) of the OZP (as outlined in paragraphs 7.2 and 7.3 in Annex A of the Paper). For construction of basement, the main considerations were no adverse impacts on the existing trees and no deterioration of the distinctiveness of the area as a garden estate. Other criteria for relaxation of BHR were better streetscape, separation between buildings to enhance air and visual permeability, innovative design and no adverse visual impacts. These criteria had been taken into account when considering the approval of previous similar applications.

The Size of the Proposed Basement

34. Some Members raised the following questions for the applicant's representatives:

- (a) the reason for varied basement size of similar approved applications;
- (b) the reason for not placing the ancillary plant rooms at-grade; and
- (c) environmentally friendly facilities adopted in the proposed basement.

35. Mr Ivan Ho, the applicant's representative, made the following response:

- (a) the basement size would vary subject to the number of car parking spaces and ancillary plant rooms as required by relevant government departments, including the Transport Department (TD) and Buildings Department (BD). It would also depend on the scale of development;
- (b) without the basement, the car parking and maneuvering spaces would be provided at-grade. Placing the ancillary plant rooms on the remaining area at ground level would further reduce the greening area and was not considered desirable from building design perspective; and
- (c) the environmentally friendly facilities adopted in the proposed development included the proposed overall greenery ratio of 25%, a rainwater recycling plant room and a void at basement for natural ventilation and lighting.

36. A Member enquired about the consequences of the Building Authority (BA) not granting the GFA concession for the proposed basement. In response, Ms Johanna W.Y. Cheng, DPO/K, said that as indicated in the suggested advisory clause in Annex F of the Paper, the applicant was advised that the approval of the application did not imply that the proposed GFA concession (including the basement car park, staircases, void area and/or plant rooms) for the proposed development would be approved/granted by the BA. If the GFA concession was not granted and the resultant plot ratio (PR) exceeded the OZP restriction, a fresh planning application for minor relaxation of PR would be required. Mr

Ivan Ho, the applicant's representative, indicated that the size of the current basement was based on detailed design and considered reasonable. However, should the GFA concession not be granted by BA, the design would have to be revised.

37. Mr Raymond K.W. Lee, the Director of Planning (DoP), pointed out that the GFA concession of 265m² for the basement was not included in the total GFA (i.e. 434.95m² which was equivalent to a PR of 0.6) as shown in the table in paragraph 1.3 of the MPC paper (Annex A of the Paper). In the review application, the applicant rectified the figure of the proposed basement size to 294.391m² as stated in footnote 1 of the TPB paper. Ms Johanna W.Y. Cheng, DPO/K, supplemented that no new plan was submitted at the review stage and the area of the proposed basement size was revised after detailed calculation as advised by the applicant.

38. In response to a Member's enquiry, Ms Johanna W.Y. Cheng, DPO/K, said that the basement size would be subject to such factors as site configuration, number of car parking spaces, size of ancillary plant rooms to be accommodated and individual building design. Upon the submission of general building plans (GBP), concerned government departments including BD would critically assess whether the proposed ancillary plant rooms were essential and reasonable for granting GFA concession.

At-grade Greening of the Proposed Development

39. In response to a Member's enquiry on the limitation of providing at-grade greening, Mr Ivan Ho, the applicant's representative, indicated that at-grade greening was limited by the need to provide a run-in/out and a driveway in the eastern part of the Site. Also, as the proposed basement structure would be extended beyond the building line to the northern and western portions of the Site, various landscape treatments were proposed at different positions with combination of trees, shrubs and grass cover. In addition, palms, broadleaf species and evergreen species were proposed along the site boundary fronting both roads which would be visible to the public to enhance the amenity of the public realm.

40. A Member asked whether the proposed basement would affect any existing trees. Ms Johanna W.Y. Cheng, DPO/K, responded that there was some climbers and minimal

vegetation within the site and the Landscape Unit of PlanD advised that there was no existing tree within the Site.

Parking Requirements

41. Some Members raised concerns about whether there was any parking standard and the reasonable size of a car park. Ms Johanna W.Y. Cheng, DPO/K, said the Hong Kong Planning Standards and Guidelines (HKPSG) provided guidance on the ancillary car parking requirements and the dimension for a standard private car parking space was 5m long and 2.5m wide. However, the size of a car park would be subject to a number of factors including the site configuration and the required maneuvering space. TD would provide comments on whether the size of the car park was reasonable. For the current application, TD indicated that two ancillary car parking spaces in accordance with HKPSG requirement and one visitor car parking space according to TD's internal guidelines should be provided. An approval condition was also recommended to require the applicant to design and provide vehicular access, car parking spaces and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Board.

The Requirement of 6m Wide Non-building Area (NBA)

42. The Chairperson and some Members enquired about the purpose of imposing a 6m wide NBA in the area. Ms Johanna W.Y. Cheng, DPO/K, said that the 6m NBA was a requirement under the Kowloon Tong ODP which was for building setback to enhance streetscape and visual permeability in KTGE. The NBA might also help minimise the impact on existing trees grown along the site boundaries. She indicated that although the house owners in the KTGE might provide landscaping in the NBA, there was no specific requirement for provision of landscaping within the NBA under the ODP.

43. 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 representative from the Government and the applicant's representatives for attending the meeting, and they left the meeting at this point.

Deliberation Session

44. The Chairperson drew Members' attention to the relevant assessment criteria set out in the ES. She pointed out that the key considerations on the application to provide an additional basement storey in "R(C)1" zone should be whether the construction of basement would cause any adverse impacts on the existing tree or deteriorate the distinctiveness of the area as a garden estate.

45. A Member opined that the size of the proposed basement should also be taken into consideration as one of the assessment criteria. The applicant should demonstrate why those ancillary plant rooms could not be accommodated at-grade. He was concerned that there might be potential abuse of the use of the basement floor.

46. Some Members remarked that there was provision for application for the minor relaxation of BH restriction for one storey basement for use as car park and/or ancillary plant room under the OZP. The applicant had demonstrated the planning and design merits of the proposed scheme, which included the 6m wide NBA and the efforts in maximising the greening opportunities. They considered that the scale of the proposed basement was not excessive and relevant government departments had no objection to the proposal. With reference to DPO/K's advice, the applicant would be required to submit GBP for the proposed development. BA would scrutinise whether the basement size was excessive at that stage. Should the GFA concession not be granted by the BA, the applicant would be required to seek a fresh planning application for minor relaxation of PR.

47. A Member said that the proposal with enhanced landscape treatment would help maintain the character of the KTGE. However, he suggested imposing an additional approval condition requiring provision of greening with a greenery ratio not less than 25% of the site as proposed by the applicant. Members generally agreed to the suggestion. In response to another Member's enquiry, Mr Raymond K.W. Lee, DoP, indicated that the compliance of the approval condition would be subject to the satisfaction of the DoP or of the Board. At the GBP submission stage, PlanD would check whether the requirement on greening provision had been fulfilled.

48. In response to an enquiry of a Member on the purpose of the 6m wide NBA, Mr Raymond K.W. Lee, DoP, said that the NBA was not a statutory requirement under the OZP, but a requirement under the ODP which was a departmental plan. The purpose was to enhance the streetscape of the area. Under the ODP, there was no specific requirement of the landscape treatment for the NBA.

49. Members noted that the applicant had provided more information to justify the proposed basement storey in the review application. They generally considered that the proposed scheme had fulfilled the criteria set out in the ES of the OZP for an additional basement storey in “R(C)1” zone, and agreed that one additional approved condition on the greenery ratio should be added.

50. After deliberation, the Board decided to approve the application on review, on the terms of the application as submitted to the Board. The permission should be valid until 13.9.2023, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions:

- (a) the design and provision of vehicular access, car parking spaces and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (c) the provision of a minimum overall greenery ratio of 25%, as proposed by the applicant, to the satisfaction of the Director of Planning or of the Town Planning Board.

51. The Board also agreed to advise the applicant to note the advisory clauses as set out at Annex F of the Paper.

[Mr Franklin Yu arrived to join the meeting at this point. Messrs Alex T.H. Lai and Peter

K.T. Yuen left the meeting at this point.]

Hong Kong District

Agenda Item 7

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/H8/429

Proposed Shop and Services (Retail Shop) in “Comprehensive Development Area (2)” Zone, G/F (Portion), North Point View Mansion, 54 Kai Yuen Street, Hong Kong
(TPB Paper No. 10552)

[The item was conducted in Cantonese.]

52. The Secretary reported that the following Members had declared interests on the item for having business dealings with the applicant and his consultant Liu, Chan & Lam, Solicitors (LCL) and/or owning property in North Point area:

Mr Stephen H.B. Yau - owning a flat in North Point

Mr Thomas O.S. Ho - owning a flat at Braemar Hill Mansion in North Point

Mr K.K. Cheung] their firm having current business dealings with the
Mr Alex T.H. Lai] applicant and LCL

Mr Ricky W.Y. Yu - jointly owning a shop with spouse in North Point;
and being the Director and CEO of Light Be (Social Realty) Co. Ltd.) which was a social housing tenant of a residential unit in North Point

53. Members noted that Mr Alex T.H. Lai had left the meeting. As Mr K.K. Cheung had no involvement in the application and the properties owned by Messrs Stephen H.B. Yau, Thomas O.S. Ho and Ricky W.Y. Yu and the residential unit rented by the social

enterprise of Mr Yu had no direct view of the Site, Members agreed that they could stay in the meeting.

Presentation and Question Sessions

54. Members noted that the applicant had indicated that he would not attend the meeting.

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

Mr Jerry Austin - District Planning Officer/ Hong Kong (DPO/HK)

Mr T.W. Ng - Senior Town Planner/Hong Kong (STP/HK)

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

57. With the aid of a PowerPoint presentation, Mr T.W. Ng, STP/HK, 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 the TPB Paper No. 10552 (the Paper).

58. As the presentation from PlanD's representatives had been completed, the Chairperson invited questions from Members.

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

Planning Intention

- (a) whether the Premises was for residential use only noting that retail uses on lower floors were usually allowed in some residential zones;

- (b) the reason for planning the area solely for residential uses;
- (c) whether approving the application would affect the future redevelopment in the “Comprehensive Development Area (2)” (“CDA(2)”) zone;
- (d) whether there was any other use allowed on the G/F in this “CDA(2)” zone;

Facilities for Elderly

- (e) any inconvenience to ageing residents for reaching retail shops in the neighbourhood;
- (f) whether there was any general guideline on provision of facilities for an ageing community and whether there was any retail shop in the newly completed development nearby;
- (g) whether the approval of the application could be restricted to shops to serve the elderly; and

Enforcement against Illegal Conversion

- (h) whether there was any enforcement action and public complaint against the existing illegal car repairing workshop.

60. Mr Jerry Austin, DPO/HK, made the following responses:

Planning Intention

- (a) located on G/F of the North Point View Mansion, the Premises fell within an area zoned “CDA(2)” which was intended for comprehensive development/redevelopment primarily for residential uses. The area was subject to traffic constraints primarily due to the substandard conditions of the only access road, Kai Yuen Street. When the area was rezoned to “CDA(2)” in 2007, the area was planned primarily for residential use as it

was considered that the possible increase in vehicular and pedestrian traffic and demand for parking and loading/unloading arising from commercial and retail developments would further aggravate the traffic condition in the area. Notwithstanding that, there was flexibility for provision of shop and services, which was a Column 2 use on the Outline Zoning Plan;

- (b) planning permission would be required for all uses in the “CDA(2)” zone, except the uses already in existence before the subject site was rezoned from “Residential (Group A)” (“R(A)”) to “CDA(2)” in 2007. In considering an existing use, reference to the uses approved under the Buildings Ordinance would be made. According to the approved Building Plans of the subject building, the G/F of North Point View Mansion including the Premises was designed for use as car park, while the Premises was currently being used as a car repairing workshop;
- (c) while suspected unauthorised uses were observed at some of the premises on the G/F of North Point View Mansion and adjoining buildings, Kai Yuen Street remained primarily a residential neighbourhood. The proposed retail shop was not in keeping with the residential character of the neighbourhood and no similar planning application for retail shop was previously approved by the Board. Should this application be approved, it would set an undesirable precedent for seeking planning permission for retail or other ‘Shop and Services’ use in other G/F premises. The cumulative impact of approving similar applications would result in a change to the residential neighbourhood at Kai Yuen Street;

Facilities for Elderly

- (d) the nearest retail shops and other facilities could be found at Tsat Tsz Mui Road. The level difference between the site where the Premises was located and the said road was about 20m. There was no retail store in the newly completed development nearby (i.e. Fleur Pavilia);
- (e) the Hong Kong Planning Standards and Guidelines (HKPSG) had provided

guidelines on the provision of elderly services and facilities but not retail facilities specifically serving the elderly. There was a deficit in the overall provision of community care services/facilities in the district;

- (f) the application was to seek planning permission for the use of shop and services (retail shop). If the application was approved, the Premises could be used for different kinds of retail shop. It would be difficult to restrict the approved use to retail shop solely serving the elderly; and

Enforcement against Illegal Conversion

- (g) relevant information on the suspected illegal conversions in the Premises had been passed to Buildings Department and Lands Department for enforcement action. No public complaint against the car repairing workshop had been received by PlanD.

61. As Members had no further question to raise, the Chairperson thanked PlanD's representatives for attending the meeting, and they left the meeting at this point.

Deliberation Session

62. In response to the Chairperson's enquiry, Mr Raymond K.W. Lee, the Director of Planning (DoP), said that the area was undergoing a transformation. With the imminent redevelopment pressure, a review on land use and building height of North Point OZP was conducted by PlanD in 2007. The residential sites served by Kai Yuen Street were rezoned from "R(A)" to "CDA(2)" on 8.6.2007 in order to facilitate comprehensive redevelopment of the area. A comprehensive development scheme within the "CDA(2)" zone was approved by MPC in 2010. The approved scheme had been implemented by phases. The redevelopment in the site to the east of Kai Yuen Street (i.e. Fleur Pavilia) had been completed, while the western part of the zone covering the Premises was under multiple ownership posing constraints to the comprehensive redevelopment of the remaining phase to take place. The Premises was located on the G/F of North Point View Mansion, one of the residential buildings to the west of Kai Yuen Street. The approved Building Plans of the subject and adjoining residential buildings showed that G/F was for

car parking use and no retail shop was provided. There was also no similar planning application for retail shop previously approved by the Board. Should this application be approved, it would set an undesirable precedent for the other G/F premises to seek planning permission for retail or other 'Shop and Services' use.

63. A Member noted that the Premises was designated for use as a car park. There might be a parking demand in the area as the site photo showed that the area was subject to double-parking issues and hence the application should not be approved. On the other hand, a Member opined that the proposed retail shop might be convenient to the elderly residents and the cumulative traffic effect of approving such applications might not be substantial. In response to the same Member's enquiry, the Secretary said that the Board could grant a temporary approval to the application if the Board considered appropriate.

64. In response to another Member's enquiry on the public comments, Mr Raymond K.W. Lee, DoP, referred Members to paragraph 6.1 of the Paper and said that at the stage of review application, a total of 26 opposing comments were received which included a District Council member, a member of a political party, two committee members from the North Point West Area Committee, Incorporated Owners (IOs) of 38-44 Kai Yuen Street, IOs of the Gily Garden House, IOs of Blocks A, B, C, D, E, E1 and F of the North Point View Mansion, IOs of the King's Court (Kai Yuen Street), a concern group and a petition with signatures of 100 individuals. The Member said that although provision of a retail shop at the site could give convenience to the elderly in the neighbourhood, the possible preference of the locals for a pure residential neighbourhood as revealed in the public comments received should be taken into account.

65. Noting that there was no change in the planning circumstances since the consideration of the subject application by the MPC, Members generally considered that there was no particular reason to deviate from the MPC's decision.

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

“ there is no strong planning justification for the change of use in the area which is primarily for residential use. The approval of the application would

set an undesirable precedent for other similar applications, the cumulative effect of approving such applications would result in change of a pure residential neighbourhood.”

Procedural Matters

Agenda Item 8

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comment on the Draft Fanling/Sheung Shui Outline Zoning Plan No. S/FSS/23 (TPB Paper No. 10579)

[The item was conducted in Cantonese.]

67. The Secretary reported that four of the proposed amendment items to the approved Fanling/Sheung Shui Outline Zoning Plan (OZP) were to facilitate proposed public/subsidised housing developments by the Hong Kong Housing Authority (HKHA) and the Hong Kong Housing Society (HKHS). The technical consultants for the proposed amendments were Ove Arup & Partners Hong Kong Limited (Arup) and AECOM Asia Company Limited (AECOM) in association with Dennis Lau & Ng Chun Man Architects & Engineers (Hong Kong) Limited (DLN) and WSP (Asia) Limited (WSP). Mass Transit Railway Corporation (MTRC), Hong Kong & China Gas Co. Ltd. (Towngas) (a subsidiary of Henderson Land Development Co. Ltd. (HLD) and HKHS had submitted representations. The following Members had declared interests on the items:

Mr Raymond K.W. Lee - being an ex-officio member of the Supervisory Board of the HKHS
(as *Director of Planning*)

Mr Martin W.C. Kwan - being a representative of the Director of Home Affairs who was a member of Strategic Planning Committee and the Subsidised Housing Committee of HKHA
(as *Chief Engineer (Works), Home Affairs Department*)

- Professor S.C. Wong
(Vice-chairperson) - having current business dealings with AECOM and Arup, being employee of HKU which had received a donation from a family member of the Chairman of HLD before, and being a member of the Advisory Committee for Accredited Programme of MTR Academy
- Mr Thomas O.S. Ho - having current business dealings with HKHA, Arup, AECOM and MTRC and past business dealings with HKHS and DLN
- Mr K.K. Cheung] their firm having current business dealings with
Mr Alex T.H. Lai] HKHA, HKHS, Arup, WSP, MTRC, AECOM and Towngas
- Dr Lawrence W.C. Poon - being an ex-employee of HKHS, and his spouse being an employee of the Housing Department (HD) but not involved in planning work
- Mr Franklin Yu - being a member of the Building Committee of HKHA, and having past business dealings with Arup, WSP, AECOM, MTRC and HLD
- Mr Ivan C.S. Fu - having current business with Arup, AECOM, MTRC and HLD; and past business dealings with HKHA
- Dr C.H. Hau - having current business dealings with AECOM; and being an employee of the University of Hong Kong (HKU) which had received a donation from a family member of the Chairman of HLD
- Mr Stephen L.H. Liu - having past business dealings with HKHA, HKHS,

DLN, MTRC and HLD

- Mr Daniel K.S. Lau - being an ex-employee of HKHS
- Dr Lawrence K.C. Li - being a member of Special Committee on Elderly Housing of HKHS and being the Deputy Chairman of the Council of Hong Kong Polytechnic University which had obtained sponsorship from HLD before
- Mr Peter K.T. Yuen - being a Member of the Board of Governors of the Arts Centre, which had collaborated with the MTRC on a number of arts projects, and had received a donation from an Executive Director of HLD before

68. Members noted that Messrs Ivan C.S. Fu, Stephen L.H. Liu, Daniel K.S. Lau and Dr Lawrence K.C. Li had tendered apologies for not being able to attend the meeting. Members also noted that Messrs Alex T.H. Lai and Peter K.T. Yuen had left the meeting. As the items were procedural in nature, Members agreed that the above Members who had declared interests could stay in the meeting.

69. The Secretary briefly introduced the TPB Paper No. 10579 (the Paper). On 29.3.2019, the draft OZP was exhibited for public inspection under section 5 of the Town Planning Ordinance (the Ordinance). Considering that this was the first batch of amended OZPs subject to revised submission requirements under Town Planning Board Guidelines No. 29B, the Board agreed to allow the representers with the identity information in doubt or missing in their submissions a further opportunity to submit the required information and that if such representers failed or refused to provide such identity proof, the representations would be treated as not having been made. On 4.7.2019, the Secretariat sent out verification letters to the concerned parties but only one representer submitted the required information. As no response was received from the remaining 3,795 submissions with identity information in doubt or missing, they should be considered as invalid and treated as not having been made pursuant to sections 6(2)(b) and 6(3)(b) of the Ordinance.

70. A total of 124 valid representations and two comments were received. Among the 124 representations received, 6 representations were supportive, 116 were opposing and 2 providing views. Two comments on representations were received.

71. As the concerns of the representers and commenters were generally on the proposed housing developments and the issues involved were similar, the hearing of representations and comments was suggested to be considered in one group collectively by the Board.

72. To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to each representer and commenter in the hearing session. Consideration of the representations and comments by the full Board was tentatively scheduled for October 2019.

73. After deliberation, the Board agreed that:

- (a) the representations/comments should be considered collectively in one group by the Board itself; and
- (b) a 10-minute presentation time would be allotted to each representer/commenter.

Agenda Item 9

[Open Meeting]

Any Other Business

74. There being no other business, the meeting was closed at 12:05 p.m.