

**Minutes of 1232<sup>nd</sup> Meeting of the  
Town Planning Board held on 16.10.2020**

**Present**

Mr Lincoln L.H. Huang

Vice-chairperson

Mr Wilson Y.W. Fung

Mr Stephen L.H. Liu

Dr Frankie W.C. Yeung

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 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

Dr Roger C.K. Chan

Dr Venus Y.H. Lun

Mr C.H. Tse

Dr Conrad T.C. Wong

Chief Traffic Engineer (Kowloon), Transport Department  
Mr David C.V. Ngu

Chief Engineer (Works), Home Affairs Department  
Mr Gavin C.T. Tse

Assistant Director (Environmental Assessment)  
Environmental Protection Department  
Mr Terence S.W. Tsang

Director of Lands  
Mr Andrew C.W. Lai

Deputy Director of Planning/District  
Miss Fiona S.Y. Lung

Secretary

**Absent with Apologies**

Permanent Secretary for Development  
(Planning and Lands)

Ms Bernadette H.H. Linn

Dr Lawrence K.C. Li

Mr Ricky W.Y. Yu

Mr Y.S. Wong

Chairperson

Director of Planning  
Mr Raymond K.W. Lee

**In Attendance**

Assistant Director of Planning/Board  
Ms Lily Y.M. Yam

Chief Town Planner/Town Planning Board  
Ms Caroline T.Y. Tang

Senior Town Planner/Town Planning Board  
Ms W.H. Ho

## **Opening Remarks**

1. The Vice-chairperson said that as the Chairperson was engaged in another meeting, he would take up chairmanship of the meeting.
2. The Vice-chairperson said that the meeting would be conducted with video conferencing arrangement.

## **Agenda Item 1**

[Open Meeting]

### Confirmation of Minutes of the 1231<sup>st</sup> Meeting held on 25.9.2020

[The item was conducted in Cantonese.]

3. The draft minutes of the 1231<sup>st</sup> meeting held on 25.9.2020 were sent to Members on 15.10.2020 and tabled at the meeting. Subject to any proposed amendments by Members on or before 19.10.2020, the minutes would be confirmed.

[Post-meeting Note: The minutes were confirmed on 19.10.2020 without amendments.]

## **Agenda Item 2**

[Open Meeting]

### Matters Arising

[The item was conducted in Cantonese.]

#### (i) Approval of Draft Urban Renewal Authority Development Scheme Plan

4. The Secretary reported that on 29.9.2020, the Chief Executive in Council approved the draft Urban Renewal Authority Kai Tak Road/Sa Po Road Development Scheme Plan (DSP) (renumbered as S/K10/URA1/2) under section 9(1)(a) of the Town Planning Ordinance. The approval of the draft DSP was notified in the Gazette on 9.10.2020.

(ii) Reference Back of Approved Outline Zoning Plans

5. The Secretary reported that on 29.9.2020, the Chief Executive in Council referred the Approved Lung Yeuk Tau & Kwan Tei South Outline Zoning Plan (OZP) No. S/NE-LYT/17 and the Approved Hok Tau OZP No. S/NE-HT/5 to the Town Planning Board for amendment under section 12(1)(b)(ii) of the Town Planning Ordinance. The reference back of the said OZPs was notified in the Gazette on 9.10.2020.

[Dr Jeanne C.Y. Ng joined the meeting at this point.]

**Tsuen Wan & West Kowloon District**

**Agenda Item 3**

Review of Application No. A/K5/814

Proposed Hotel in “Residential (Group A) 6” Zone, 56G-56H and 56J-56K Yen Chow Street,  
Sham Shui Po, Kowloon

(TPB Paper No. 10681)

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[Open meeting (Presentation and Question Sessions only)]

[The item was conducted in Cantonese.]

**Presentation and Question Sessions**

6. The following representatives of the Government and the applicant were invited to the meeting:

***Government Representatives***

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|--------------------|---|
| Ms Katy C.W. Fung  | - District Planning Officer/ Tsuen Wan & West Kowloon, Planning Department (DPO/TWK, PlanD) |
| Ms Jessica Y.C. Ho | - Senior Town Planner/Sham Shui Po, (STP/SSP), PlanD  |

Mr Simon S.M. Wong - Senior Engineer/Kowloon District West,  
Transport Department (SEK/W, TD)

***Applicant***

*Million Rise Properties Ltd.* – ]  
Mr Nelson Man ]  
Mr Matthew Ho ]  
Mr Andrew Lin ]  
*Toco Planning Consultants Ltd.* – ]  
Mr Ted Chan ]  
Mr Daniel Wei ] Applicant’s Representatives  
Ms Jacqueline Ho ]  
*A&B Architects Ltd.* – ]  
Mr Anthony Chan ]  
Mr Wyan Yeung ]  
*Ozzo Technology (HK) Ltd.* - ]  
Ms Oliver Cheung ]

7. The Vice-chairperson extended a welcome and explained the procedure of the review hearing. He then invited PlanD’s representative to brief Members on the review application.

8. With the aid of a PowerPoint presentation, Ms Jessica Y.C. Ho, STP/SSP, PlanD, 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. 10681 (the Paper).

[Dr Conrad T.C. Wong joined the meeting during PlanD’s presentation.]

9. The Vice-chairperson then invited the applicant’s representatives to elaborate on the review application.

10. With the aid of a PowerPoint presentation, Messrs Nelson Man, Ted Chan, Anthony

Chan and Ms Oliver Cheung, the applicant's representatives, made the following main points:

*Hotel Development to Facilitate a Fashion Hub in Sham Shui Po (SSP)*

- (a) the application site (the Site) was acquired by the owner of Dragon Centre in 2012 with a view to developing a hotel to promote fashion and design industries in SSP, which was in line with the policy initiatives as unveiled in the 2018 and 2019 Policy Addresses;
- (b) Dragon Centre, which was located opposite to the Site, was a focal point in SSP and had held a number of fashion shows and related activities from 2013 to 2020. It was planned to further enhance Dragon Centre's fashion hub function by converting the second and eighth floors to fashion related uses. Currently, there were only two hotels in SSP which could not cater for the needs of the business travellers. The proposed hotel, which would provide accommodation to overseas designers and buyers, would create a synergy effect for the development of a fashion hub in Dragon Centre;
- (c) SSP had been ranked number 3 among the world's 40 coolest neighbourhoods by a magazine due to its unique history and latest development in relation to fashion and design industries. The predominant residential use in SSP would not help promote the fashion and design industries. More commercial developments at desirable locations could enhance the image of SSP;
- (d) given that the applicant was a subsidiary company of the owner of Dragon Centre and was well experienced in hotel operation and management in Hong Kong and the South-east Asia, converting the Site for hotel use could optimise the development potential of the Site;

*Misinterpretation of the Housing Policy*

- (e) the Site was originally zoned "Commercial/Residential" ("C/R") on the draft Mong Kok Outline Zoning Plan (OZP) to provide flexibility for mixed

use development and subsequently rezoned to “Residential” in 1975 under which commercial uses could be permitted on application to the Board. It was further rezoned to “Residential (Group A)” (“R(A)”) and incorporated into the draft Cheung Sha Wan (CSW) OZP in 1987. ‘Hotel’ was a Column 2 use within the “R(A)” zone which might be permitted on application to the Board. Given the flexibility provided by the planning application system, commercial uses at desirable locations with good development proposals should be approved by the Board;

- (f) there was only 2.78 ha of land zoned “Commercial” on the CSW OZP, which was insufficient to provide impetus for further commercial development in the district. Currently, SSP did not have a clear identity or character to promote new development. The proposed hotel development could act as a catalyst not only for the fashion hub development in Dragon Centre, but also other developments in the district;
- (g) given the unique site characteristics and ownership, approval of the proposed hotel development at the Site would not result in precedent effect nor aggravate the shortfall in housing supply in the district;

#### *Planning Gains*

- (h) a footbridge (FB) to connect the existing FB linking Dragon Centre to the proposed hotel was proposed. A lift and staircase as well as covered pedestrian corridor would be provided within the proposed hotel to form an all-weather 24-hour barrier free access (BFA). The proposed FB connection was a major enhancement to address the concern of the SSP District Council for better FB connection across Yen Chow Street outside Dragon Centre, particularly after the occurrence of a traffic accident near the junction of CSW Road and Yen Chow Street in September 2017. It would form part of the FB system from Ki Lung Street passing through Dragon Centre to Lai Kok Estate, and provide a new BFA access for the elderly and wheelchair users to the FB at Ki Lung Street, for which the existing escalator was only provided in one direction (i.e. upward



movement). The proposal had made reference to the FB connection between Langham Place and the adjacent hotel;

- (i) the proposed building setbacks of about 0.91m along Yen Chow Street and about 1.4m along Ki Lung Street to provide a 4.5m-wide footpath on both streets could provide a safe walking environment for pedestrians. The proposal was similar to two approved planning applications in Kwun Tong for commercial use with FB connection or building setback of about 1m for footpath widening. As the pedestrian walking environment associated with those projects had been substantially improved, the proposals in the current application should be considered as significant planning gains;
- (j) a communal landscape garden was proposed on L4 floor of the hotel to provide a convenient resting area for local residents. The garden would be purposely designed to provide an urban recreation hub with pedestrian linkages to Dragon Centre and the nearby areas;

#### *Similar Applications*

- (k) while four similar applications for hotel development were approved within the “R(A)” zone on the CSW OZP, only two were implemented. Should the Board consider that four hotels in the district were appropriate, there were still two quotas left for new hotel development and favourable consideration should be given to the subject application;
- (l) one of the approved and implemented hotels within the “R(A)” zone was E Hotel in Pei Ho Street, SSP, which had an average occupancy rate of 70-80% in September 2020 during the pandemic, demonstrating that there was a strong demand for hotel rooms in SSP. The building setback in E Hotel for footpath widening had also improved the walking environment in the area;
- (m) a similar application for hotel development at 15-19 Third Street (application No. A/H3/434 within the “R(A)” zone) was approved in 2017

on the consideration, among others, that the proposed scheme would provide a setback from Third Street for pavement widening and there were improvements in traffic arrangement. As the subject application was very similar to the above-mentioned case, it was doubtful why the subject application could not be approved;

*Traffic Issues*

- (n) in response to the concerns of TD, the applicant had the following justifications:

*Non-Provision of Loading/Unloading Facilities*

- (i) according to the Hong Kong Planning Standards and Guidelines (HKPSG), a hotel development with 70 rooms would require 0.35 - 0.7 loading/unloading (L/UL) bay for goods vehicles, 0.5 lay-by for taxi/private cars and 0.23 lay-by for tour bus. As the proposed small-size boutique hotel would not provide restaurant, retail shop, concierge service nor serve tour groups, and all laundry and linen services would be carried out at Dragon Centre, no internal transport facility would be provided at the Site;
- (ii) it was estimated that the peak hour traffic generated by the proposed hotel was similar to the existing residential development. The existing public L/UL bays at Ki Lung Street had sufficient spare capacity to cope with the demand arising from the proposed hotel development;
- (iii) run-in/run-out at the Site, no matter at Yen Chow Street or Ki Lung Street, was not recommended as the available distance from the signalised/priority junctions could not meet the minimum requirements as stipulated in the Transport Planning and Design Manual (TPDM). If a turn-table for vehicles within the Site was provided to facilitate the provision of internal transport facilities,

vehicles waiting on Yen Chow Street for entering the Site would disrupt the traffic flow due to the short distance between the run-in/run-out and the nearby junctions. It would also create vehicular/pedestrian conflicts due to high volume of pedestrian flow on the streets. Due to the above concern, relaxation of TPDM's standard for providing non-standard run-in/run-out at the Site was also not recommended;

- (iv) the bus stop at Yen Chow Street fronting the Site would need to be relocated about 50m to the south-west near Tai Nam Street together with two other existing bus-stops. The concentration of bus-stops was considered undesirable due to insufficient bus/passenger queuing spaces;

Surveyed Traffic Flow Generally Lower than TD's Observation

- (v) the traffic survey was undertaken in September 2019 when the traffic volume might be affected by the social activities. By making reference to the 2018 observed peak hour traffic flows in the same area, the 2019 observed AM and PM peak hour traffic flows increased by 10% and 20% respectively. In general, the 2019 adjusted traffic flows were 10-30% higher than the 2018 observed flows. Notwithstanding that, the traffic survey could be undertaken once the traffic flows and patterns were back to normal;
- (vi) the traffic impact assessment (TIA) demonstrated that the proposed development would not have adverse traffic impact as the traffic flow generated was small (i.e. a maximum of 10 vehicles per hour) and the potential traffic impact on the nearby junctions was insignificant;

Little Benefit of the Proposed FB Connection

- (vii) according to the Traffic Situation Report for the Crossing Facilities across Yen Chow Street outside Dragon Centre published by SSP District Council in December 2016, the lack of BFA was a major

concern of the local residents and a grade-separated crossing facility would be beneficial to the district;

- (viii) the proposed 24-hour BFA would have great benefit to those who were in need, including the elderly and persons in wheelchair/pram/pushing cart. According to the survey in 2019, the amount of pedestrians across the at-grade crossing on Yen Chow Street who would be benefited from the proposed BFA was about 4.7% of the total flow;
- (ix) in view of the above, it was considered that the benefits of providing a 24-hour BFA and a wider footpath outweighed the disadvantages of the non-provision of L/UL facility for the proposed development;

#### *Constraints for Residential Development*

- (o) the Site was too small for an efficient residential development. Amalgamation of the Site with the adjacent lots (currently occupied by Luen Hong Building) for a larger development site was infeasible as there was a 9-inch-wide party wall in between the sites which belonged to an anonymous owner;
- (p) according to the latest building regulations and requirements (e.g. plot ratio (PR) and site coverage (SC) restrictions), the development potential of the Site could not be fully utilised if it was used for residential development. According to a notional scheme for residential development, the maximum PR that could be achieved at the Site was 7.63 for the provision of about 38 flats. However, the proposed hotel development could achieve a PR of 9 with the provision of about 70 guestrooms; and
- (q) given that the allowable SC for non-domestic development was greater than domestic development, the habitable area (after deducting the service core, electrical and mechanical facilities and corridors) for hotel development was about 61% while that for residential development was about 44%.

Besides, to fully utilise the permissible PR, the building height (BH) of the proposed residential development was about 20 storeys while that for hotel development was about 16 storeys. The proposed residential development with a small footprint and high BH would resemble a “toothpick-like building”, which was undesirable from urban design perspective.

[Dr Frankie W.C. Yeung joined the meeting during the presentation of the applicant’s representatives.]

11. The Secretary reported that Mr K.K. Cheung had declared an interest on the item as his firm had business dealings with the owner of Dragon Centre, the parent company of the current applicant. Members noted that while Mr K.K. Cheung had no involvement in the subject application, he would not participate in the question and answer and deliberation sessions.

12. As the presentations from the representatives of PlanD and the applicant had been completed, the Vice-chairperson invited questions from Members.

*Planning Intention*

13. Two Members raised the following questions:

- (a) zoning background of the Site; and
- (b) given that the Site was located opposite to Dragon Centre and government offices, whether it could be considered as a special case to deviate from the planning intention of the “R(A)” zone.

14. In response, Ms Katy C.W. Fung, DPO/TWK, PlanD, made the following main points:

- (a) the Site was originally zoned “C/R” on the draft Mong Kok OZP No. LK 3/8 in 1973 and rezoned to “Residential” on the draft Mong Kong OZP No. LK 3/10 in 1975. The part of the planning area to the southeast of Yen Chow Street including the Site was excised from the draft Mong Kong OZP

No. S/K3/1 and incorporated as “R(A)” zone on the draft CSW OZP No. S/K5/4 in 1987. Following the recommendations of the Kowloon Density Study Review completed in early 2002, the PR restriction for the “R(A)” zone was incorporated into the draft CSW OZP No. S/K5/23 in the same year. The Site was subsequently rezoned to “R(A)6” with the incorporation of BH restriction on the draft CSW OZP No. S/K5/32 in 2010; and

- (b) each planning application would be considered based on its individual merits, including whether the proposed development would cause adverse impacts on the surrounding areas and whether there were sufficient justifications to deviate from the planning intention of the “R(A)” zone. While Dragon Centre, SSP Police Station and CSW Government Offices were located on the opposite side of the Site, the vicinity of the Site on the same side of Yen Chow Street was predominantly residential in nature. Although the proposed hotel development was considered not incompatible with the surrounding developments, it was not fully in line with the planning intention of the “R(A)” zone. With respect to the planning gains, the proposed FB connection and BFA had little benefit as there was already a signalised at-grade crossing in approximately 40m away at Yen Chow Street. The proposed communal garden on L4 floor of the proposed hotel was not comparable to a ground floor garden in terms of convenience. While building setback could facilitate pedestrian flow, whether its benefit could outweigh the adverse traffic impact of the proposed development was in doubt.

*Hotel Development to Facilitate a Fashion Hub in SSP*

15. Some Members raised the following questions:

- (a) policy initiative for the development of SSP as a fashion hub;
- (b) whether there was a planning policy for hotel development in SSP; and

- (c) whether 'Hotel' use was allowable in Dragon Centre.

16. In response, Ms Katy C.W. Fung, DPO/TWK, PlanD, made the following main points:

- (a) it was stated in the 2018 Policy Address to make full use of the traditional base for apparel and fabrics in SSP District to develop the design and fashion sectors, with a view to driving the district's local economy and promoting its unique charm for local tourism. The Government, in collaboration with the Urban Renewal Authority and the Hong Kong Design Centre (HKDC), had secured space for establishing a Design and Fashion Project which was expected to be completed in 2023-24;
- (b) there was currently no planning policy for hotel development in SSP; and
- (c) Dragon Centre was zoned "Commercial (2)" on the CSW OZP and 'Hotel' was a Column 1 use which was always permitted.

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

- (a) details of the fashion and design activities organised in Dragon Centre and number of participants from 2013 to 2020, and percentage of the participants with accommodation need;
- (b) the relationship between hotel development at the Site and the promotion of a fashion hub in SSP;
- (c) whether the existing building at the Site could be used to accommodate short-stay visitors participating in Dragon Centre's activities;
- (d) whether consideration had been given to providing hotel facilities in Dragon Centre; and

- (e) the latest development of fashion and design industries in SSP.

18. In response, Messrs Nelson Man, Matthew Ho, Ted Chan, Anthony Chan and Wyan Yeung, the applicant's representatives, made the following main points:

- (a) a number of fashion shows and related activities had been organised in Dragon Centre from 2013 to 2020. However, there was no information on the number and details of the activities and the number of participants at hand;
- (b) it was expected that more fashion shows and fair would be organised in Dragon Centre which would attract overseas designers and buyers. More accommodation spaces in the vicinity would be beneficial not only for the promotion of a fashion hub in Dragon Centre, but also the development of fashion and design industries in SSP. Exhibition area and designer's showcase would be provided on ground floor of the proposed hotel in tandem with the improvement plan for Dragon Centre to provide more spaces for fashion and design related activities. However, Dragon Centre's improvement plan would hinge on the proposed hotel development or otherwise it would be difficult to organise functions inviting overseas participants;
- (c) the existing building at the Site was mainly rented out on short-term basis in the form of dormitory. If visitors were also accommodated on a daily basis, it would create problems in the operation. As such, it was proposed to develop a hotel at the Site to accommodate short-stay visitors;
- (d) it was the applicant's plan to provide hotel accommodation at the Site in support of the development of a fashion hub in Dragon Centre. The alternative of providing hotel facilities in Dragon Centre had not been explored by the applicant; and
- (e) the Government planned to turn the traditional garment and fabric wholesale hub of SSP into a fashion and design base, and a centre at Tung Chau



Street/Kweilin Street would be operated by HKDC which had organised various fashion related activities in SSP. In view of the Government's initiative, the owner of Dragon Centre considered that the role of Dragon Centre in promoting fashion and design industries could be further enhanced and a hotel in the vicinity could provide synergy effect for the development of the fashion hub.

### *Similar Applications*

19. Two Members raised the following questions:
  - (a) reasons for approval and rejection of the similar applications within the "R(A)" zone on the CSW OZP; and
  - (b) details of the approved similar application at Third Street.
  
20. In response, Ms Katy C.W. Fung, DPO/TWK, PlanD made the following main points with the aid of some PowerPoint slides:
  - (a) four similar applications (No. A/K5/696, A/K5/718, A/K5/724 and A/K5/730) for either redevelopment or wholesale conversion of the existing building for hotel development within the "R(A)" zone on CSW OZP were approved having considered the land use compatibility with the surrounding areas which were predominately residential in nature with commercial uses on the lower floors, development intensity in compliance with the OZP restrictions and insignificant traffic impact caused by the proposed developments. Application No. A/K5/730 was also approved on the consideration that the proposed hotel would alleviate the industrial/residential interface problem in the area. Two (No. A/K5/696 and A/K5/724) out of the four approved applications had commenced and the hotels were already in operation. E Hotel was related to the approved application No. A/K5/696;

- (b) among the ten rejected applications, three (No. A/K5/583, A/K5/604 and A/K5/623) were rejected mainly for the reasons that the proposed hotel was not compatible with the character of its neighbourhood and there was inadequate provision of parking and/or L/UL facilities within the site while three (No. A/K5/715, A/K5/721 and A/K5/769) were rejected mainly due to non-provision of separated and independent access from other portions of the existing building. The remaining four applications (No. A/K5/731, A/K5/736, A/K5/755 and A/K5/793) were rejected mainly on the grounds that given the current shortfall in housing supply, the sites should be developed for their zoned use; and there were no planning merits to justify the proposed development; and
  
- (c) the site at Third Street (No. A/H3/434) fell within the “R(A)8” zone on the Sai Ying Pun and Sheung Wan OZP and was approved in 2017. The application was approved on considerations, among others, that the application was mainly to include an additional lot into an already approved hotel scheme which would allow better site utilisation; and the scheme had provided additional design merits including a setback of 0.45m from Third Street for pavement widening and provision of a L/UL space and a taxi/private car lay-by within the hotel.

### *Hotel and Service Apartment*

21. A Member asked the definition of service apartment in the Notes of the OZP. In response, Ms Katy C.W. Fung, DPO/TWK, PlanD said that “Service Apartment” use was previously included in either Column 1 or Column 2 of the Notes for relevant zones on some OZPs. While the Board had all along considered service apartment as “hotel-like” for planning control purpose, the Government had encountered difficulties in defining service apartment in enforceable legal terms. Concerns were also raised that residential flats constructed in the name of service apartment in unsuitable areas, e.g. in industrial and commercial areas or areas subject to environmental constraints, would be undesirable as the residents therein would be subject to problems arising from land use incompatibility and inadequate provision of supporting community facilities. In view of the above, if the proposed service apartment units were developed as part of and/or operated within a hotel establishment, it would be considered as

“Hotel”. All other service apartment developments, including those conventional residential flats with central services provided, would be regarded as “Flat” use under the Notes of the relevant OZP.

22. Some Members raised the following questions to the applicant’s representatives:

- (a) the differences between service apartment and hotel; and
- (b) the rental arrangement for E Hotel, noting the promotion for providing long-stay accommodation at the hotel’s website.

23. In response, Messrs Ted Chan and Anthony Chan, the applicant’s representatives, made the following main points:

- (a) in general, service apartment referred to flats rented out on a monthly basis while hotel rooms were rented out on a daily basis. Under the latest planning and building regulations, there was no definition of service apartment and the development would either be regarded as residential or hotel use. According to the Buildings Ordinance, kitchen was required for residential developments irrespective of the size of unit. For hotel development, there was no requirement for kitchen and it could enjoy a higher non-domestic PR such that more GFA for accommodation could be provided. According to the Hotel and Guesthouse Accommodation Ordinance (HAGAO), if the accommodation was provided for a period less than 28 continuous days for each letting, it would need to comply with HAGAO and the proposed development would need to fulfil relevant building regulations and requirements for a purposely built hotel. Once a development was constructed as a purposely built hotel, whether it was rented out on a daily or monthly basis was a market decision. As the applicant would only rent out its properties, developing the Site for hotel use could provide more habitable area. Besides, given the overseas designers and buyers would not stay long in Hong Kong, provision of hotel rooms at the Site would be more appropriate; and

- (b) E Hotel, which was positioned for up-market customers and in-depth travellers, was designed as a free style cool hub for daily rental purpose. While it was operated on a daily rental basis, it also provided accommodation for persons under quarantine with a weekly rental arrangement during the pandemic. It was noted that long-stay accommodation was not provided in E Hotel but at another site in the vicinity.

### *Planning Gains*

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

- (a) whether the survey figures regarding daily pedestrian flow across Yen Chow Street in 2019 were correct;
- (b) whether the survey figures were relevant to demonstrate that the proposed BFA was a planning gain; and
- (c) how the proposed FB would be connected with the existing FB and how long the existing FB would be closed for the construction works of the proposed FB connection.

25. In response, Ms Oliver Cheung and Mr Anthony Chan, the applicant's representatives, made the following main points with the aid of some PowerPoint slides:

- (a) the number of persons using the existing FB and at-grade crossing at Yen Chow Street as shown in Table 4.4 of Annex E of the Paper was counted during a survey in 2019. There was an error in the calculation of percentage of persons in wheelchair or with pram/pushing carts using FB (i.e. 2.3% was an over-estimated figure). Besides, the number of persons using the FB should not include persons in wheelchair or with pram, who would need to use at-grade crossing;

- (b) currently, the FB at Ki Lung Street did not have BFA as there was only one escalator provided for an upward movement. Persons in wheelchair or with pram would still need to use the at-grade crossing at Yen Chow Street. While it was the Government's intention to provide BFA for most of the FBs, no lift could be provided for the FB at Ki Lung Street due to limited space in footpath. Should the proposed hotel development be approved, opportunity could be taken to provide a BFA connecting to the FB at Ki Lung Street to cater for the needs of persons in wheelchair or with pram such that the over-crowdedness of the at-grade crossing could be alleviated; and
  
- (c) the proposed FB connection, which would be in the form of a curvilinear cantilever attached to the existing FB without any column or supporting structures extended to the footpath, would not affect the structure of the existing FB. It was expected that the existing FB might need to be closed for one to two days for the required works.

### *Traffic Issues*

26. Some Members raised the following questions to the government representatives:
- (a) main concern for the non-provision of L/UL bay and whether such non-provision was considered as unacceptable for hotel development;
  - (b) whether there were approved cases with non-provision of L/UL bay;
  - (c) whether the provision of sub-standard run-in/run-out at the Site would be accepted by TD;
  - (d) the difference in the traffic flow between the TIA findings and TD's observation; and
  - (e) whether the adjusted traffic flow generated by the proposed hotel would create insurmountable traffic impact on the local road network.

27. In response, Mr Simon S.M. Wong, SEK/W, TD and Ms Katy C.W. Fung, DPO/TWK, PlanD made the following main points with the aid of some PowerPoint Slides:

- (a) in general, internal transport facilities should be provided for the proposed development in accordance with the requirements under HKPSG to avoid adverse traffic impact on the surrounding areas. According to site observation, the existing L/UL and parking demand in the vicinity of the Site was high and the L/UL bays were mostly fully utilised due to the presence of the existing shops, hawkers and market. In view of the existing traffic condition, ancillary L/UL facilities should be provided to cater for the traffic generated by the proposed hotel development;
- (b) while two similar cases (No. A/K5/696 and A/K5/724) for hotel development with non-provision of L/UL bay and car parking spaces had been approved, those cases were approved in 2011 and 2012;
- (c) while there was constraint to provide run-in/run-out at the Site, TD would hold an open-view for run-in/run-out at Ki Lung Street where pedestrian flow was relatively lower, subject to its actual design;
- (d) although adjustments were made by the consultants to the results of their traffic survey, the estimated traffic flow was still lower than TD's observed/surveyed traffic flow by about 20%. The major discrepancy was related to the traffic flow figure at the junction of CSW Road and Yen Chow Street; and
- (e) if the traffic flow generated by the proposed development was less than 10 vehicles per hour as claimed by the applicant, it was envisaged that the traffic impact might not be significant.

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

- (a) how the L/UL demand of the proposed hotel could be addressed if no L/UL bay would be provided within the development;

- (b) whether the applicant would consider providing a L/UL bay if TD considered that a L/UL bay within the development was essential; and
- (c) whether the structure of the existing FB would be affected by the proposed FB connection.

29. In response, Messrs Ted Chan and Nelson Man and Ms Oliver Cheung, the applicant's representatives, made the following main points:

- (a) the existing public L/UL bays at Ki Lung Street had spare capacity to cope with the L/UL demand arising from the proposed hotel development. Besides, there were sufficient L/UL facilities in Dragon Centre to cater for the demand at the Site;
- (b) it was noted that the requirement under HKPSG was not statutory and there were cases that L/UL bay was not required for some approved hotel developments (e.g. E Hotel). In the subject application, it was obvious that the provision of run-in/run-out, no matter at Yen Chow Street or Ki Lung Street, would cause adverse impacts on traffic flow and pedestrian movement. While L/UL bay would not be provided, the footpath would be widened and a lift would be provided for a 24-hour BFA. The planning gains outweighed the disadvantages of the non-provision of L/UL bay. However, if TD considered that L/UL bay was a critical factor for hotel development, the applicant would review the proposal with due care; and
- (c) a preliminary structural report for the proposed FB connection was submitted at the s.16 stage and had been circulated for departmental comment. As the proposed development was still at the planning stage, no comment from relevant government department had been received.

*Others*

30. In response to a Member's question, Ms Katy C.W. Fung, DPO/TWK, PlanD said that the concerned lots were virtually unrestricted under the lease. The applicant might need to apply for removal of non-offensive trade clause if provision and sale of food and beverages were proposed at the lots.

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

[Messrs Alex T.H. Lai, K.K. Cheung and Stanley T.S. Choi left the meeting during the question and answer session.]

Deliberation Session

32. The Secretary reported that Mr Alex T.H. Lai had declared an interest on the item as his former firm had business dealings with the owner of Dragon Centre, the parent company of the current applicant. Members noted that Mr Alex T.H. Lai had already left the meeting.

33. Two Members considered that the subject application could be supported for the following reasons:

- (a) while the vicinity of the Site on the same side of Yen Chow Street was predominantly residential in nature, Dragon Centre was located just opposite to the Site and the proposed hotel development was considered not incompatible with the surrounding developments. Favourable consideration could be given to allowing more commercial uses near Dragon Centre to create a synergy effect;



- (b) due to the small area of the Site and the building regulations and requirements, the habitable area for residential development was lower than that for hotel development. Should residential development be built, the development potential of the Site could not be fully optimised and the “toothpick-like building” form of development was considered undesirable from urban design perspective;
- (c) the proposed FB connection and BFA could provide an alternative for the elderly and wheelchair users to cross Yen Chow Street and the overcrowdedness of the at-grade crossing at that street would be alleviated; and
- (d) residential development at the Site would also generate traffic flow (e.g. taxi trips) and L/UL requirement. The traffic impact generated by the proposed hotel development might not be very significant.

34. Majority of Members, however, considered that the subject application could not be supported for the following reasons:

- (a) in view of the shortfall in housing land supply, the planning intention of the Site for high-density residential development should not be deviated unless there were strong justifications in support of the development. While the proposed hotel development might bring about some planning gain, they were not sufficient to justify a deviation from the planning intention of the “R(A)” zone. The proposed FB connection and BFA had little benefit as there was already an at-grade crossing at Yen Chow Street which was only about 40m away from the Site. The elderly and wheelchair users might prefer using at-grade crossing rather than lift. The proposed building setback for footpath widening might not be able to outweigh the adverse traffic impact caused by the non-provision of L/UL facilities. The benefit of the communal garden was not obvious due to its location on L4 floor of the proposed hotel;
- (b) no concrete hotel demand figure was provided by the applicant to justify that more hotel accommodation was required in SSP to facilitate the development of fashion and design related industries;

- (c) even if there was a strong demand for hotel accommodation, the basic requirements for hotel development would need to be complied with. In particular, TD considered that ancillary L/UL facilities were essential for the proposed hotel development at the Site. Relying on the public L/UL bays in Ki Lung Street or the L/UL facilities in Dragon Centre was not satisfactory as it would create adverse impacts on traffic flow and pedestrian movement at Ki Lung Street and the existing FB respectively. Given that TD would hold an open-view for the proposed run-in/run-out at Ki Lung Street, the possibility of providing internal transport facilities at the Site should be further explored;
- (d) while similar applications with non-provision of internal transport facilities were approved in previous years, the subject application should be considered based on its individual merits, taking into account the traffic condition in the area. The applicant should liaise with TD to ensure that the proposed development would not create adverse traffic impact on the surrounding area;
- (e) while it was stated that the proposed hotel would not serve tour groups and hence no tour bus trips would be generated, there was no guarantee that ownership of the Site would not be changed and no tour groups would be served in future; and
- (f) hotel development at the Site should not be the only solution to provide hotel accommodation in SSP. There were other hotels in SSP and other districts. Other options such as providing hotel accommodation in Dragon Centre could also be explored.

[Mr Wilson Y.W. Fung left the meeting during the deliberation.]

35. The Vice-chairperson concluded that after considering the written and verbal submissions made by the applicant's representatives, most of the Members were not in support of the review application. Members generally agreed that the applicant failed to provide strong

justifications for the proposed hotel development, and there was insufficient ground to depart from the MPC's decision to reject the application.

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

- “(a) the proposed hotel development is not in line with the planning intention of the “Residential (Group A)” (“R(A)”) zone which is for high-density residential development. The applicant fails to demonstrate that there are sufficient justifications to deviate from the planning intention of the “R(A)” zone;
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for similar applications in the same and other “R(A)” zones in the vicinity. The cumulative effect of approving such similar applications would aggravate the shortfall in the supply of housing land.”

[Messrs Thomas O.S. Ho and L.T. Kwok and Professor Jonathan W.C. Wong left the meeting at this point.]

### **Sai Kung & Islands District**

#### **Agenda Item 4**

Review of Application No. A/SK-PK/254

Proposed Redevelopment of House (New Territories Exempted House) in “Conservation Area” Zone, Lot 110 in D.D. 219, Kei Pik Shan, Tai Chung Hau, Sai Kung  
(TPB Paper No. 10682)

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[Open Meeting]

[The item was conducted in Cantonese.]

Presentation and Question Sessions

37. The following representatives of the Planning Department (PlanD) and the applicant were invited to the meeting:

***PlanD***

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

***Applicant***

*Master Art Limited* – ]  
Mr Ho Tak-eng ]  
Ms Zhang Xiu-ying ]  
Mr Lit Ying-cheung ]  
Mr Lit Ho-chi, Melvin ]  
Mr Ma Yung-kong, Helicon ] Applicant's Representatives  
*Man Chi Consultants and Construction* ]  
*Limited* – ]  
Mr Luk Siu-chuen, Thomas ]  
Ms Cheung Yeung-mei, Grace ]  
Ms Au Wing-yee, Winnie ]  
Ms Yeung Sin-yee, Tiffany ]

38. The Vice-chairperson extended a welcome and explained the procedure of the review hearing. He then invited PlanD's representative to brief Members on the review application.

39. Ms Donna Y.P. Tam, DPO/SKIs, said that the further information (FI) submitted by the applicant on 14.10.2020 was circulated to Members on 15.10.2020. With the aid of a PowerPoint presentation, she 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 TPB Paper No. 10682 (the Paper).

40. The Vice-chairperson then invited the applicant's representatives to elaborate on the review application.

41. With the aid of a PowerPoint presentation, Ms Cheung Yeung-mei, Grace and Mr Ma Yung-kong, Helicon, the applicant's representatives, made the following main points:

*Development Intensity Reduced*

- (a) the application site (the Site), Lot 110 in D.D. 219 (the Lot), was an Old Schedule Lot held under Block Crown Lease (BCL) issued in 1905 as 'House' with an area of 0.02 acre (about 80.93m<sup>2</sup>) and no development restriction as stipulated therein. On 21.8.1979, the Lands Department (LandsD) approved a rebuilding application to allow a 3-storey house with 700ft<sup>2</sup> (i.e. 65.04m<sup>2</sup>) in built-over area and 7.62m in height to be built at the Site. LandsD's approval demonstrated the Government's recognition of the presence of a house at the Site;
- (b) comparing with the proposed house under the rebuilding application approved by LandsD in 1979 and a previous planning application No. A/SK-PK/44 at the same site submitted by another applicant in 1997, the development intensity of the proposed house had been reduced under the current application. For example, the building height (BH) of the proposed house redevelopment was reduced from three storeys to two storeys as compared with the schemes in 1979 and 1997, and the total GFA was reduced from 195m<sup>2</sup> to 120m<sup>2</sup> as compared with the scheme in 1997. In view of the above, it would not result in a total redevelopment in excess of the plot ratio (PR), site coverage (SC) and height of the house which was in existence on the date of the first publication in the gazette of the notice of the Pak Kong Interim Development Permission Area Plan No. IDPA/SK-PK/1 (the IDPA Plan) on 12.10.1990;

*Rejection Reasons were Contradictory*

- (c) the current application was for redevelopment of house with established building status rather than a new development. It was noted that both the terms of “development” and “redevelopment” had been used in the two rejection reasons for the subject application, which were contradictory and would cause confusion. It should be noted that “redevelopment” should not be considered in the same manner as “development”;

*No Definition on the Allowable Time Period between Demolition and Redevelopment*

- (d) there was no definition/regulation on the allowable time period between demolition of house and commencement of redevelopment works i.e. after how long a period of vacancy would the Site be deemed ineligible for redevelopment. It was doubtful why the legitimate redevelopment right under the lease would be affected by the publication of the IDPA Plan and the non-existence of the original house at that time even if there was strong evidence that a House was previously in existence at the Site. It should be noted that ‘House (redevelopment only)’ was a Column 2 use of the “Conservation Area” (“CA”) zone on the approved Pak Kong and Sha Kok Mei Outline Zoning Plan No. S/SK-PK/11 (the OZP) for which planning permission could be granted upon application to the Board;

*Building Status at the Site*

- (e) according to the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories, planning permission might be granted under very exceptional circumstances e.g. the application site had building status under the lease. Given that the building status under the lease was well established, there was no ground to reject the subject application for redevelopment of house;

- (f) based on the D.D. Control Sheet prepared by the Indian surveyors between 1899 and 1905, it was evidenced that a village house was clearly marked based upon an existing house erected on the Lot with an entrance at the eastern side. An aerial photo taken in 1954 showed that a house had been erected on the Lot and its size was comparably smaller than the one surveyed by the Indian surveyors and recorded on the D.D. Control Sheet. The concerned house was recorded as house ruins in a Survey Sheet in 1963. Structures or ruins of the original house could also be identified on the aerial photos taken in 1956, 1963 and 1976. It was extrapolated that the configuration of the Lot boundary as shown on Lot Index Plan in June 2019 was based on the original house;
  
- (g) while PlanD, by making reference to the aerial photo of LandsD, said that the Site was partly vegetated and vacant when the IDPA Plan was gazetted in 1990, there was no evidence to demonstrate that there were no house ruins at the Site as they might be covered by vegetation. Given that there was clear evidence for the building status at the Site, the legitimate right of the applicant to redevelop the house should not be deprived of even if the concerned house was collapsed on the date when the IDPA Plan was gazetted;

*Demonstration of a Long-established Housing Entitlement*

- (h) rebuilding of house on a House Lot was a contractual right of the lessee under the lease. In the subject case, LandsD had approved a rebuilding application for a 3-strorey house at the Site in 1979. The application was approved based on the primary evidence that the Lot was registered as 'House' in the BCL, and the secondary evidence was that the owner was paying rent according to the class of 'House', and the house was at one time physically in existence according to the relic at the Site;
  
- (i) the Site had not been redeveloped and the rebuilding approval was cancelled by LandsD in 1982 due to the change of land ownership. While the reason for not implementing the redevelopment proposal at the Site was unclear, it

was not uncommon that the construction works might not commence due to financial reasons. Besides, as there was no building covenant included in the approval letter issued by LandsD, the land owner at that time might not be aware that the approval would be cancelled subsequently;

*Similar Application*

- (j) there was a previously approved similar application for redevelopment of two NTEHs (No. A/SK-HC/60) within the “CA” zone of the Ho Chung OZP. While no house could be identified on the aerial photo when the relevant IDPA plan was gazetted in 1990 and the site was vacant before an application for redevelopment was made, the application was approved by RNTPC on 19.6.1998. As the subject application was very similar to the above-mentioned application, favourable consideration should be given to the subject application; and

*Negligible Impact on the “CA” Zone*

- (k) no government department except the Chief Town Planner/Urban Design and Landscape of PlanD had adverse comment on the subject application. Given the small area of the Site (67.8 m<sup>2</sup>), which only accounted for about 0.003% of the total area of the “CA” zone on the OZP, the proposed redevelopment of house would have negligible impact on the landscape and conservation value of the nearby area and the “CA” zone as a whole. In view of the above justifications, the Board was requested to give sympathetic consideration to the subject application.

42. Mr Ho Tak-eng, the applicant’s representative, made the following main points:

- (a) he had financial difficulties to acquire a property in the urban area due to the medical expenses he had paid for his mother. He authorised the applicant, Master Art Limited, to acquire the Site a few years ago with a view to redeveloping a house for the long-term residence of his mother who had some relatives/friends living in the nearby areas;



- (b) the proposed redevelopment of house would comply with all relevant government regulations/requirements. If the main concern of the Board was the development intensity of the proposed house, he was willing to further reduce the development intensity to meet the requirements; and
- (c) he was a nature-lover. Should the application be approved, the redeveloped house would be purposely designed to blend in with the natural environment as far as possible.

43. As the presentations from the representatives of PlanD and the applicant had been completed, the Vice-chairperson invited questions from Members.

*Planning Intention and Requirements on the OZP*

44. Some Members raised the following questions:
- (a) planning intention of the “CA” zone and the justifications required for a departure from the planning intention;
  - (b) whether there was a general presumption against development in the “CA” zone except redevelopment of house;
  - (c) the requirements for redevelopment of house as stipulated in the “CA” zone;
  - (d) the reference point for determining the development intensity of the house in existence as required by the OZP, i.e. whether a house previously in existence at the Site but not in existence on the date of the first publication of the IDPA Plan could meet the requirement; and
  - (e) whether the applicant’s proposal to further reduce the development intensity of the house was acceptable.

45. In response, Ms Donna Y.P. Tam, DPO/SKIs, made the following main points with the aid of some PowerPoint slides:

- (a) according to the Notes of the OZP, “CA” zone was intended to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. If a proposed use was not in line with the planning intention of the “CA” zone such as the redevelopment of house in the subject application, the applicant should provide strong justifications for a departure from the planning intention for the Board’s consideration. For example, whether the Site had building status and whether the proposed development would cause adverse impacts on the surrounding area. The proposed development should also meet other requirements on the OZP;
- (b) there was a general presumption against development in the “CA” zone. The developments/uses that might be permitted were those that were needed to support the conservation of the existing natural landscape or scenic quality of the area or were essential infrastructure projects with overriding public interest;
- (c) it was stipulated in the Remarks of the Notes of the “CA” zone that no redevelopment, including alteration and/or modification, of an existing house should result in a total redevelopment in excess of the PR, SC and height of the house which was in existence on the date of the first publication in the Gazette of the notice of the IDPA plan;
- (d) it was clearly stated in the Notes of the “CA” zone that reference should be made to the house which was in existence on the date of the first publication in the Gazette of the notice of the IDPA Plan, rather than the house that was previously in existence at the Site. As such, even if it could be proved that there was a house previously in existence at the Site, it should also be demonstrated that the redevelopment would not exceed the PR, SC and height of the house which was in existence on the date of

the first publication of the IDPA Plan. As no building structure could be found at the Site on the specified date in 1990, such a comparison on PR, SC and BH could not be made to determine whether the requirement as stipulated on the OZP was met. The applicant of the previous application (No. A/SK-PK/44) for House (Redevelopment) at the Site had lodged an appeal to the Town Planning Appeal Board (TPAB) after the application was rejected by the Board upon review in 1997. The appeal was subsequently dismissed by TPAB in 1998. TPAB had accepted PlanD's view that as no building structure could be identified at the Site on the date of the first publication of the IDPA Plan, it could not determine whether the requirement as stipulated on the OZP had been complied with; and

- (e) the proposal to further reduce the development intensity of the house redevelopment at the Site was only raised in the subject meeting without detailed information. According to the established practice, if FI was submitted by the applicant, it would be processed in accordance with the relevant TPB Guidelines to determine whether the FI could be accepted and/or would need to be published for public comment. The FI would also be circulated to relevant government departments for comment. Due to the lack of information, it was not possible to provide comment on the applicant's latest proposal. In addition, even if the applicant would further reduce the development intensity of the proposed house redevelopment, e.g. by reducing the SC or BH, there was no basis to say that the proposal complied with the OZP requirements given that no building structure was identified at the Site on the date of the first publication of the IDPA plan.

*Building Status at the Site*

- 46. Some Members raised the following questions to the applicant's representatives:
  - (a) whether there was evidence to support the applicant's claim that the Lot boundary could be considered as the footprint of the house previously erected at the Site;

- (b) the type of rent paid by the owners of the Site;
- (c) whether survey had been conducted by the applicant to identify wall footings and foundation of the original house; and
- (d) an estimation of the area of the footprint and the BH of the original house according to the available information.

47. In response, Ms Cheung Yeung-mei, Grace, Messrs Ma Yung-kong, Helicon and Lit Ying-cheung, the applicant's representatives, made the following main points with the aid of some PowerPoint slides:

- (a) the BCL was prepared by the Indian surveyors between 1899 and 1905. As the original purpose of the BCL was for rent collection, the description therein should truly reflect the physical condition of the lots. The boundary of structures at that time had been recorded in the D.D. Control Sheet of the BCL, which was later taken as the boundary of the Lot in the Lot Index Plan. According to the D.D. Control Sheet, features such as entrance to the house and courtyard could be identified in the Lot. In the 1963 Survey Sheet, 'Ruin' was marked at the site. Partial ruined wall footings of the original house were also shown on the aerial photo taken in 1963;
- (b) owners of the Site, including the current land owner, were paying rent to the Government according to the class of 'House';
- (c) according to a recent survey, no ruined wall footings nor foundation could be found at the Site. As approval had been given by LandsD in 1979 for rebuilding of a 3-storey house at the Site, it could not preclude the possibility that site formation works had been undertaken legally at that time and the remaining structures of the original house had been removed. While no ruined structures could be found at the Site at the moment, ruins of the original house could be identified in the survey sheet and aerial photos from 50s to 70s; and

- (d) it was estimated that the areas occupied by the footprint of the original house and the courtyard were about 500 ft<sup>2</sup> and 300 ft<sup>2</sup> respectively. While information on the BH was not available, it was noted that most of the houses at that time were one-storey with a cockloft and the BHs were about 13 to 15 feet.

48. A Member enquired if there was any explanation for the uses, development parameters of the 'House' and the right of the owners in the BCL. In response, Ms Donna Y.P. Tam, DPO/SKIs, said that the Lot was described as 'House' with an area of 0.02 acre (80.93m<sup>2</sup>) under the Schedule of BCL. As no information regarding the development parameters of the 'House' (e.g. floor area or BH) was included in the BCL, the BCL could not help determine the development intensity of the original house at the Site. Mr Lit Ying-cheung, Helicon, the applicant's representative, supplemented that for the purpose of rent collection, uses were generally described in detail according to the actual uses in the Schedule of BCL. For example, building structures might be described as 'House' or 'Cow Shed' depending on the actual uses at the time. As such, he was pretty sure that 'House' in BCL was for habitation. Besides, if the site area was larger than 0.01 acre, it would be recorded as 0.02 acre in BCL for rent collection. It could be extrapolated that the Lot should have a minimum area of 0.01 acre. As the Government had collected rent according to the class of 'House' at the Lot for tens of years, it was unreasonable to prohibit redevelopment of the house due to inexistence of the original house structure at a specific point of time.

49. A Member enquired on the basis for LandsD to approve the rebuilding of a 3-storey house at the Site in 1979. In response, Ms Donna Y.P. Tam, DPO/SKIs, said that given there was no statutory town plan at that time, the rebuilding application was approved merely based on the land administration policy. Mr Andrew C.W. Lai, Director of Lands, supplemented that the rebuilding application was approved in 1979 mainly because a house was previously in existence at the Site. Reference was only made to the BCL to ascertain whether the Site was a house lot and development intensity approved for the rebuilding application was based on that for a NTEH (i.e. roofed-over area not exceeding 700 ft<sup>2</sup> and BH not exceeding 3 storeys) according to the land administration policy at that time.

50. In response to a Member's question, Mr Andrew C.W. Lai, Director of Lands, said that the approval for rebuilding of house was withdrawn on 31.5.1982 due to the change of land ownership. No rebuilding application had been received thereafter.

51. A Member asked whether LandsD would approve rebuilding of house subject to planning permission from the Board. In response, Mr Andrew C.W. Lai, Director of Lands, said that the rebuilding application approved in 1979 was based on the land administration policy at that time when the Lot was not covered by a statutory town plan. After the publication of statutory town plan in the 1990s, rebuilding of house would need to comply with the relevant regulations under both the planning and lands regimes. As to whether planning permission was required on a specific lot, it would depend on the zoning of the Lot on the statutory town plan. If house redevelopment was allowed on the relevant statutory town plan, rebuilding application would be considered by LandsD based on the prevailing land administration policy.

#### *Similar Applications*

52. Two Members raised the following questions to PlanD's representative:

- (a) the difference between the subject application and the similar application (No. A/SK-HC/60) quoted by the applicant; and
- (b) whether there was any other cases similar to the subject application within the "CA" zone.

53. In response, Ms Donna Y.P. Tam, DPO/SKIs, made the following main points:

- (a) as each case should be considered based on its planning context and individual merits, a direct comparison of the two cases might not be appropriate. However, some basic information could be provided for the Board's consideration. The site of application No. A/SK-HC/60, which was held under an Old Schedule House Lot, fell within the Ho Chung OZP. It was located relatively closer to the "Village Type Development" zone and the existing village cluster. Information had been provided by the applicant to demonstrate that there were ruins of two old houses at the site.

Based on the above considerations, among others, the application was approved by RNTPC in 1998 as an exceptional case; and

- (b) while there were two other house lots within the same “CA” zone, it was noted that there were house structures at the concerned sites. There was no outstanding similar case within the same “CA” zone.

*Site Characteristics and Landscape Impact*

54. Some Members raised the following questions:

- (a) uses of the formed areas to the east of the Site;
- (b) land status of areas surrounding the Site; and
- (c) whether there was any house and stream in the vicinity of the Site.

55. In response, Ms Donna Y.P. Tam, DPO/SKIs, made the following main points with the aid of some PowerPoint slides:

- (a) according to the aerial photos, the Site was partly vegetated and vacant when the Pak Kong IDPA Plan No. IDPA/SK-PK/1 was gazetted on 12.10.1990. However, the Site and its surrounding area had been cleared and formed since around 1998. An adjacent site to the east of the Site (highlighted by green dotted line on Plan R-2 of the Paper), which was also owned by the applicant, was the subject of an active enforcement case for unauthorized development (UD) involving storage use. Enforcement Notice (EN) was issued on 4.11.2019, requiring the UD to be discontinued by 4.2.2020. Since the UD had not been discontinued upon expiry of the EN, prosecution action would follow;
- (b) areas surrounding the Site were government land. Site formation works might have been undertaken at the Site and its surrounding areas to form a platform; and

- (c) there was no house in the vicinity of the Site but a stream was found to the south of the Site.

56. A Member enquired about the accessibility of the Site and how the construction materials would be transported to the Site should the application be approved. In response, Ms Cheung Yeung-mei, Grace, the applicant's representative, said that the Site was accessible via a footpath (about 230m) connecting to an existing village track leading to Mang Kung Wo Road and then Hiram's Highway. Should the application be approved, the applicant would commute by taxi and on foot only. Construction materials would be delivered to the Site via pushing carts to minimise disturbances to the natural environment. Ms Donna Y.P. Tam, DPO/SKIs, supplemented that there was a footpath connecting the Site to a village track (single-track road) leading to Mang Kung Wo Road and then Hiram's Highway. There would be a 15-20 minutes' drive from the village track to Hiram's Highway.

#### *Others*

57. A Member asked whether there was definition for development and redevelopment in the planning regime. Ms Donna Y.P. Tam, DPO/SKIs, responded that according to the Town Planning Ordinance (the Ordinance), development meant carrying out building, engineering, mining or other operations in, on, over or under land, or making a material change in the use of land or buildings. While there was no definition for redevelopment, it was generally referred to the re-construction of the demolished structures. As such, redevelopment could also be considered as a kind of development in a broad sense.

58. In response to a Member's question regarding ancillary structures for agricultural use, Ms Donna Y.P. Tam, DPO/SKIs, said that for sites with agricultural use, any structure or premises ancillary to and directly connected with the agricultural activities, such as cowshed, green house and structure for the storage of machinery/tools, but excluding any structure or premises for domestic purposes, were allowable within the "CA" zone. However, approvals from the Agriculture, Fisheries and Conservation Department and LandsD were required for the construction of such structures.



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

[Mr Stephen L.H. Liu and Dr Venus Y.H. Lun left the meeting during the question and answer session.]

### Deliberation Session

60. The Vice-chairperson remarked that the Site fell within the "CA" zone with the planning intention to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. 'House (Redevelopment only)' was a Column 2 use of the "CA" zone. Besides, it was stated in the Remarks of the Notes of the "CA" zone that no redevelopment, including alteration and/or modification, of an existing house should result in a total redevelopment in excess of the PR, SC and height of the house which was in existence on the date of the first publication in the Gazette of the notice of the IDPA plan. As such, apart from providing justifications for a departure from the planning intention of the "CA" zone, the applicant would need to demonstrate that the proposed redevelopment of house would not result in a total redevelopment in excess of the development intensity of the house which was in existence on the date of the first publication of the IDPA Plan.

### *Planning Intention*

61. Members noted that the Site was located in the heart of the "CA" zone and surrounded by extensive native woodlands. Comparing the series of aerial photos from 1990 to 2018, the Site and its surrounding area were originally covered with vegetation but had been cleared and formed since 1998. There was UD undertaken in areas to the east of the Site, which were also owned by the applicant. Members generally considered that the applicant had not provided strong justification in the submission for a departure from the planning intention of the

“CA” zone.

*Development Intensity*

62. While some Members were sympathetic to the subject application, they were of the view that it was the applicant’s burden to prove that the proposed redevelopment of house would meet the requirements as stipulated on the OZP. Members also noted that the further reduction of the development intensity of the proposed house was only raised by the applicant at the meeting, which should not be further considered.

63. Members generally considered that there was a lack of information to demonstrate that the proposed redevelopment of house had complied with the requirements as stipulated on the OZP for the following reasons:

- (a) it was clearly stated on the OZP that no redevelopment of an existing house should result in a total redevelopment in excess of the development intensity of the house which was in existence on the date of the first publication in the Gazette of the notice of the IDPA Plan. The reference point for determining the development intensity of the house in existence was the date of the first publication of the IDPA Plan rather than whether there was a house previously in existence before the publication of the IDPA Plan;
- (b) the Site was partly vegetated and vacant on the date of the first publication of the IDPA Plan in 1990, and no wall footings and foundation could be found at the Site. Even if the house was in existence previously, the applicant failed to demonstrate that a house was in existence on the date of the first publication in the Gazette of the notice of the IDPA Plan, nor to establish its development intensity at the reference point. As such, it could not be ascertained that the proposed redevelopment of house would not result in a total redevelopment in excess of the development intensity of the house at the reference point; and
- (c) while a rebuilding application at the Site was approved by LandsD in 1979, the approval was made under the land administration policy at that time

before the publication of the relevant statutory town plan. It should be noted that all development/redevelopment proposals should comply with the prevailing government regulations and requirements, including the requirements under the OZP.

64. The Vice-chairperson suggested and Members agreed that reason (b) for rejecting the application as recommended by PlanD in the Paper should be suitably amended to reflect the above Members' consideration.

65. A Member remarked that the applicant was paying rent to the Government according to the class of 'House'. If the right of the land owners to redevelop their houses could not be respected under the planning regime, it might create obstacles in the Board's future rezoning of lots with building status to conservation zones.

66. Noting that a previous application (No. A/SK-PK/44), which was submitted by a different applicant, was rejected by the Board and the TPAB in 1997 and 1998 respectively due to similar consideration on the development intensity, a Member expressed doubt on why the applicant had submitted the subject application in spite of the previous decisions. The Member was of the view that the Board's consideration on the subject application, in particular on the issue of development intensity, should be conveyed to the applicant clearly.

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

- “(a) the proposed development is not in line with the planning intention of the “Conservation Area” zone which is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Country Park from the adverse effects of development. There is a general presumption against development in this zone. The applicant fails to provide strong justification in the submission for a departure from the planning intention; and

- (b) the applicant fails to demonstrate a house was in existence on the application site on the date of the first publication in the Gazette of the notice of the interim development permission area plan, i.e. 12.10.1990, and that the development intensity of the proposed house will not result in a total redevelopment in excess of the plot ratio, site coverage and height of the house which was in existence on that day.”

**Agenda Item 5**

[Open Meeting]

**Any Other Business**

68. There being no other business, the meeting was closed at 2:30 p.m.