

**Minutes of 939<sup>th</sup> Meeting of the  
Town Planning Board held on 17.7.2009**

**Present**

Permanent Secretary for Development  
(Planning and Lands)  
Mr. Raymond Young

Chairman

Dr. Greg C.Y. Wong

Vice-chairman

Mr. Nelson W.Y. Chan

Mr. David W.M. Chan

Mr. Leslie H.C. Chen

Mr. Tony C.N. Kan

Mr. Edmund K.H. Leung

Professor N.K. Leung

Dr. Daniel B.M. To

Mr. Stanley Y.F. Wong

Mr. Alfred Donald Yap

Ms. Sylvia S.F. Yau

Mr. B.W. Chan

Mr. Walter K.L. Chan

Ms. Maggie M.K. Chan

Mr. Raymond Y.M. Chan

Mr. Y.K. Cheng

Mr. Felix W. Fong

Professor Paul K.S. Lam

Dr. James C.W. Lau

Hon. Starry W.K. Lee

Mr. K.Y. Leung

Mr. Rock C.N. Chen

Mr. Maurice W.M. Lee

Mr. Timothy K.W. Ma

Dr. Winnie S.M. Tang

Assistant Director (2), Home Affairs Department  
Mr. Andrew Tsang

Director of Lands  
Miss Annie K.L. Tam

Deputy Director of Environmental Protection  
Mr Benny Y.K. Wong

Principal Assistant Secretary (Transport)  
Transport and Housing Bureau  
Mr. Fletch Chan

Director of Planning  
Mrs. Ava S.Y. Ng

Deputy Director of Planning/District  
Miss Ophelia Y.S. Wong

Secretary

**Absent with Apologies**

Professor David Dudgeon

Professor Bernard V.W.F. Lim

Dr. C.N. Ng

Professor Edwin H.W. Chan

Ms. Anna S.Y. Kwong

**In Attendance**

Assistant Director of Planning/Board  
Mr. Lau Sing

Chief Town Planner/Town Planning Board  
Ms. Christine K.C. Tse

Senior Town Planner/Town Planning Board  
Mr. J.J. Austin

**Agenda Item 1**

[Open Meeting]

**Confirmation of Minutes of the 938<sup>th</sup> Meeting held on 26.6.2009**

[The meeting was conducted in Cantonese.]

1. The Secretary reported that a copy of the proposed amendments made by the Director of Lands and the Deputy Director of Environmental Protection respectively to paragraphs 11 and 49 of the minutes of the 938<sup>th</sup> meeting held on 26.6.2009 had been tabled for Members' consideration. As Members had no comments on the proposed amendments, the minutes were confirmed subject to the amendments.

**Agenda Item 2**

[Open Meeting]

**Matters Arising**

[The meeting was conducted in Cantonese.]

2. The Secretary reported that there were no matters arising.

[Mr. Leslie H.C. Chen arrived to join the meeting at this point.]

**Agenda Item 3**

[Open Meeting (Presentation and Question Session Only)]

Appeal Against Revocation of Planning Permission under Application No. A/H25/6-4  
Temporary Exhibition Hall for Motor Vehicles for a Period of 3 Years  
Basement Level B1 of the Car Park Complex, Hong Kong Convention and Exhibition Centre,  
1 Harbour Road, Wan Chai, Hong Kong

**(TPB Paper No. 8362)**

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[The hearing was conducted in Cantonese.]

Presentation and Question Session

3. Professor Bernard V.W.F. Lim had declared interests as he lived near the application premises. Members noted that Professor Bernard V.W.F. Lim had tendered apology for not attending the meeting.

4. The following representatives of the Government and the applicant were invited to the meeting at this point:

- |                   |   |  |
|-------------------|---|--|
| Ms. Brenda Au     | - | District Planning Officer/Hong Kong (DPO/HK),<br>Planning Department (PlanD) |
| Ms. Donna Tam     | - | Senior Town Planner/Hong Kong, PlanD   |
| Mr. Chong Ho Ming | - | Divisional Officer/New Projects, Fire Services<br>Department (FSD)           |
| Mr. Wong Yuk Ping | - | Senior Station Officer/New Projects, FSD                                     |
| Mr. Jovi Wong     | ) |  |
| Mr. Henry Au      | ) | Applicant's representatives  |
| Mr. S.T. Wong     | ) |  |
| Mr. Ray Ho        | ) |  |

5. The Chairman extended a welcome and explained briefly the procedures of the hearing. He then invited Ms. Brenda Au to brief Members on the background to the revocation of planning permission.

[Miss Annie K.L. Tam, Mr. Y.K. Cheng, and Mr. Felix W. Fong arrived to join the meeting at this point.]

6. With the aid of a Powerpoint presentation, Ms. Brenda Au made the following main points as detailed in the Paper:

- (a) on 3.11.2006, application No. A/H25/6 for the use of the application premises as an exhibition hall for motor vehicles was approved on a temporary basis for 3 years up to 3.11.2009. Approval condition (c)

required the provision of fire service installations (FSIs) and submission of documentary proof to indicate that the fire safety requirements were fulfilled to the satisfaction of the Director of Fire Services (D of FS) or of the Board within 6 months from the date of approval;

- (b) three applications for extension of time for compliance with approval condition (c) were subsequently approved, thereby extending the compliance period from the original 6 months to a total of 21 months;
- (c) on 1.8.2008, the MPC decided to reject the fourth application for extension of time and the planning permission was revoked on 3.8.2008. On 14.11.2008, at the review of MPC's decision by the Board, the applicant indicated that building plans showing the FSI proposals had been approved and the applicant would need 4 to 5 months to complete the accepted FSI works. The Board therefore decided upon review to grant planning permission to the application subject to the following conditions:
  - (a) no motor shows or car fairs or any related events should be undertaken at the premises;
  - (b) the provision of means of escape to the satisfaction of the Director of Buildings or of the Board;
  - (c) the provision of the accepted proposal for FSIs and submission of documentary proof to indicate that the fire safety requirements were fulfilled to the satisfaction of the Director of Fire Services or of the Board by 14.5.2009; and
  - (d) if planning condition (c) above was not complied with by the specified date, the approval given should cease to have effect and should on the same date be revoked without further notice.
- (d) the applicant submitted information to show compliance with approval condition (c) on 13.5.2009. D of FS considered the submission inadequate to demonstrate that the proposed fire safety measures had been implemented and hence approval condition (c) could not be deemed to

have been complied with to the satisfaction of D of FS. The planning permission was revoked on 14.5.2009 as the applicant failed to comply with approval condition (c) satisfactorily by 14.5.2009;

(e) on 1.6.2009, the applicant submitted an appeal against the revocation of planning permission with the following justifications:

- D of FS's comments were related to the installation of sprinklers and fire hydrant outlets for new staircases which served means of escape (MoE) purposes. As MoE were required under approval condition (b) which did not have a time limit for compliance, it was unfair to conclude that the FSIs had not been completed in time;
- the uncompleted fire shutters were not defined as FSI; and
- the actual and practical number of visitors to the temporary exhibition hall was less than that for a shopping centre. The MoE requirements imposed by Buildings Department (BD) were more stringent than the actual need.

(f) departmental comments – D of FS said that his comments were raised with reference to the building plans approved BD on 20.11.2008. FSD noted that the following items had not been completed, including sprinkler heads for new staircases No. 6 to 10, fire hydrant outlets at the new staircases No. 6 and 10, actuation device for the proposed fire shutters, and components of the proposed audio/visual advisory system. Since the approved building plans indicated that fire shutters would be provided, the actuation device for such fire shutters which was an FSI facility should be provided even though the fire shutters themselves were not regarded as an FSI facility. If fire shutters had not been proposed in the building plans, FSD would have objected to the building plans due to the non-provision of a smoke extraction system required for commercial premises with a fire compartment exceeding 7,000m<sup>3</sup>; and

(g) PlanD's views – PlanD did not support the appeal against the revocation of planning permission. The accepted FSI proposals shown on the

approved building plans included both installations associated and not associated with the MoE. Although there was no compliance period for the MoE, the applicant needed to implement the works for the MoE and complete the FSIs, including those associated with the MoE in order to comply with the fire safety requirements. As the FSIs were not implemented in accordance with the accepted proposal, planning permission should be revoked.

7. The Chairman then invited the applicant's representatives to elaborate on their justifications. With the aid of documents shown on the visualizer, Mr. Jovi Wong made the following main points:

- (a) the applicant had tried its best to implement the accepted FSI proposals and they had no intention to avoid carrying out any works required;
- (b) although the building plans were approved, the applicant was not sure whether the proposed works were acceptable to LandsD as BD's approval letter indicated that LandsD's comments would be issued separately to the applicant. The applicant was concerned that since the permitted use under the short term waiver granted by LandsD was only for the 'display and sales of motor vehicles' and not for 'shopping arcade' use as shown in the approved building plans, LandsD would not approve the change in use. However, confirmation from LandsD was yet to be received;
- (c) the MoE staircases were not provided because building the staircases could result in a breach of lease conditions for the application premises and the rooftop open space owned by Trade Development Council (TDC) where openings for the MoE staircases were required. Without consent from LandsD that the above changes were acceptable, they could not implement the MoE staircases;
- (d) to overcome the problems surrounding the MoE staircases, the applicant had submitted an alternative set of building plans to BD in February 2009 showing reduced floor area calculations so as to avoid the need for the



additional MoE staircases. However, the amended building plans were rejected by BD;

- (e) by early May 2009, all the FSI requirements except those related to the MoE staircases had been implemented. The fire sprinkler system was provided up to the MoE staircases with appropriate connections to allow extensions into the MoE staircases as soon as the staircases were built. In this way, the applicant considered that approval condition (c) had been met;

[Dr. Daniel B.M. To and Mr. Maurice W.M. Lee arrived to join the meeting at this point.]

- (f) the fire shutters were not completely installed mainly to reduce the risks caused in case of fire as the fire shutters would close off some fire exits and endanger visitors. In view of the small amount of visitors to the existing car showroom, it was considered that the fire escape currently provided within the premises was adequate already;
- (g) there were some defects in the audio/visual advisory system installed by the contractor and the applicant would follow-up with the contractor to eliminate the defects; and
- (h) the applicant had recently obtained the agreement of BD to a revised set of fire safety requirements and had submitted building plans incorporating the revised FSI proposals to BD for approval on 16.7.2009. Should the revocation of planning permission be withdrawn, the applicant would proceed to implement the revised FSI proposals to meet approval condition (c).

8. Mr. Henry Au supplemented that the applicant had already done everything that was technically feasible to meet the approval condition and they had already spent more than \$2 million to provide the FSIs required. The applicant was planning to extend the temporary permission for three more years and they had every intent to meet the fire safety requirements. Should the planning permission be revoked, it would result in the loss of

300 jobs which was undesirable.

9. The Chairman asked the applicant to indicate the works that were technically not feasible. Mr. Henry Au replied that the applicant was unable to provide the MoE staircases without the agreement of LandsD. Mr. Jovi Wong supplemented that according to their understanding, Lands D would not accept the proposed change of use from 'display and sales of motor vehicles' to 'shopping arcade' under the short term waiver. When asked why they had not approached TDC, the owner of the rooftop open space, Mr. Wong said that they were waiting for the consent of LandsD before they could construct the MoE entrances at the rooftop which also involved some common areas.

10. A Member asked FSD to comment on the applicant's claim that the fire safety requirements were too stringent for the subject premises, in view of the actual number of visitors to the showroom. Mr. Chong Ho Ming explained that the MoE requirements and the calculation on visitor numbers were requirements of BD rather than FSD. Nevertheless, since MoE staircases were included in the approved building plans, FSD would require the MoE staircases to be provided with FSIs.

11. A Member enquired whether the 7,000m<sup>3</sup> compartment requirement was a requirement of FSD. Mr. Chong Ho Ming explained that it was a fire safety requirement to provide smoke extraction system for commercial premises with a fire compartment exceeding 7,000m<sup>3</sup>. To avoid the requirement for smoke extraction system, the applicant could change the design of the car exhibition hall so that each fire compartment, separated by fire shutters, would not exceed 7,000m<sup>3</sup>. In response to the same Member's enquiry, Ms. Brenda Au replied that based on a recent site visit, fire shutters and the MoE staircases had not been provided. There were only hoardings surrounding the area where the MoE staircases were proposed to be located.

12. Regarding the applicant's claim that the fire safety requirements were too stringent for the subject premises, Ms. Brenda Au said that the FSI proposals shown on the approved building plans were actually proposed by the applicant and the applicant had indicated to the Board at the review hearing on 14.11.2008 that 4 to 5 months would be required to complete the FSI works. Though the applicant claimed that the MoE were not part of the FSI proposals, Ms. Au pointed out that the building plans submitted by the

applicant had indicated clearly the FSI proposals which included the installations associated with the MoE.

13. Ms. Au also said that there should be enough time for the applicant to sort out the technical issues related to the provision of MoE since such provision was proposed in the applicant's building plan submission early in 2006.

[Professor N.K. Leung arrived to join the meeting at this point.]

14. A Member enquired whether it was feasible for the applicant to construct that part of the MoE between B1 and B2 floors without extending them to the rooftop. Mr. Jovi Wong explained that it would not serve any purpose to build only part of the MoE as it would still be considered as incomplete. Besides, the applicant was unable to start any structural works concerning the MoE without the consent of LandsD.

15. In response to the Chairman's enquiry, Mr. Jovi Wong explained that all the FSI proposals had been implemented except those associated with the MoE staircases. The completed works included the sprinkler heads and the audio/visual advisory system but not the sprinklers at the MoE staircases. In response to the Chairman's query, Mr. Chong Ho Ming replied that the provision of sprinkler system at the MoE staircases would be required before he would accept that approval condition (c) had been complied with.

16. Another Member asked the applicant how long it would take to have the FSI works completed to the satisfaction of the departments concerned. The same Member also noted that the use as 'shopping arcade' was actually shown on the building plans submitted by the applicant. In response, Mr. Jovi Wong explained that in the latest building plans submitted to BD, the car display area and the car sales area were separated from each other and BD agreed that, in view of the change in design, the additional MoE staircases would not be required. Hence, no further construction works were necessary. Regarding the use of the term 'shopping arcade' on the building plans, Mr. Wong explained that it was mainly because the terminology used in building plans did not include 'display and sales of motor vehicles' use.

17. As the representatives of the applicant had no further comment to make and

Members had no further questions, the Chairman informed them that the hearing procedures had been completed. The Board would further deliberate on the appeal against the revocation of planning permission in their absence and inform the applicant of the Board's decision in due course. The Chairman thanked the representatives of the Government and the applicant for attending the meeting. They all left the meeting at this point.

[Mr. Walter K.L. Chan left the meeting temporarily at this point.]

### Deliberation Session

18. Miss Annie K.L. Tam explained that a short term waiver was granted and was being extended every 3 months for the display and sales of motor vehicles at the application premises. Should any structural works be required at the subject premises and the rooftop open space, the applicant should ask the owner (TDC) to approach LandsD to apply for a waiver. LandsD would then consult relevant Government departments on the proposal.

19. A Member noted that the issue was mainly concerned with the role and relationship between the owner and the tenant. This Member also noted that as the expansion works for Hong Kong Convention and Exhibition Centre (HKCEC) would be completed by the end of the year, the demand for car parking spaces would increase and it was quite unlikely that the applicant could renew its tenancy and continue to use the application premises for car exhibition hall purposes. This Member opined that the action taken by the applicant was merely a delaying tactic. This view was supported by another Member who cast doubt on whether the applicant would put in further investment given the short time available before the expiry of the temporary use in November 2009.

20. The Chairman noted that the applicant had admitted that the FSI proposals required had not been completed and therefore, he considered that the applicant had failed to comply with approval condition (c). The applicant's argument that the sprinkler system for the MoE staircases did not form part of the FSI requirements was not acceptable. In view of the above, Members agreed that the applicant had failed to comply with approval condition (c).

21. After further deliberation, the Board decided not to support the appeal against

the revocation of planning permission.

[Mr. Walter K.L. Chan returned to join the meeting at this point.]

[Hon. Starry W.K. Lee and Dr. Winnie S.M. Tang arrived to join the meeting at this point.]

**Agenda Item 4**

[Open Meeting]

Information Note and Hearing Arrangement for Consideration of Representations and Comments to the Draft Kwai Chung Outline Zoning Plan No. S/KC/22

**(TPB Paper No. 8365)**

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[The meeting was conducted in Cantonese.]

22. The Secretary reported that Dr. Winnie S.M. Tang had declared interests in this item as she was a Member of the Kwai Tsing District Council. As the item was procedural in nature, Members agreed that she could stay in the meeting.

23. The Secretary briefly introduced the paper. On 20.2.2009, the draft Kwai Chung Outline Zoning Plan (OZP) No. S/KC/22 was exhibited for public inspection under section 5 of the Town Planning Ordinance. A total of 765 representations and 39 comments were received. As the amendments had attracted wide public and local concerns, it was considered more appropriate for the Board to hear the representations and comments itself without resorting to the appointment of a Representation Hearing Committee. The hearing could be accommodated in the Board's regular meeting and conducted collectively under two groups, including:

- (a) Group 1 – 762 representations and 39 related comments mainly on the rezoning of the ex-Kwai Chung Police Married Quarters site to “Residential (Group E)” to facilitate public rental housing development; and
- (b) Group 2 – three representations related to the rezoning of part of a

playground and part of a primary school in Shek Lei Estate to “Residential (Group A)” mainly as a result of zoning boundary adjustments.

24. After deliberation, the Board agreed that the representations and comments should be considered in the manner as proposed in paragraphs 2.1 and 2.2 of the Paper.

**Agenda Item 5**

[Open Meeting]

Any Other Business

[The meeting was conducted in Cantonese.]

25. There being no other business, the meeting was closed at 11:15 a.m.