

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/H17/140**

- Applicant** : Ultra Well Group Limited represented by Townland Consultants Limited
- Site** : 39 South Bay Road, South Bay, Hong Kong
- Site Area** : 1,338 m<sup>2</sup>
- Lease** : Rural Building Lot (RBL) No. 1168:  
(a) with a term of 50 years from 30.12.2011;  
(b) restricted for private residential purpose subject to maximum gross floor area (GFA) and site coverage (SC) of 1,204.2m<sup>2</sup> and 22.5% respectively;  
(c) any building or buildings shall not exceed 4 storeys including any floor or space below the level of the ground, subject to exemption of carports and mechanical service floor from calculation of the number of storey;  
(d) tree felling and landscaping clauses; and  
(e) a non-development area imposed at the eastern and southern sides of the Site.
- Plan** : Approved Shouson Hill and Repulse Bay Outline Zoning Plan (OZP) No. S/H17/13
- Zoning** : “Residential (Group C) 5” (“R(C)5”)  
(a) maximum 4 storeys in addition to 1 storey of carports or the height of the existing building, whichever is the greater;  
(b) the maximum plot ratio (PR) and SC shall be limited to 0.9 and 22.5% respectively for residential development with 4 storeys for domestic purposes;  
(c) in determining the maximum PR and SC, car-park, plant room, caretaker’s office, ancillary recreational facilities and caretaker’s quarters may be disregarded; and  
(d) provision for application for minor relaxation of the above restrictions.
- Application** : Proposed minor relaxation of SC and building height (BH) restrictions for permitted ‘Flat’ use

## 1. The Proposal

1.1 The applicant seeks planning permission for minor relaxation of SC (from 22.5% to 28%) and BH (from 4 storeys in addition to 1 storey of carports to 4 storeys over a 2-storey podium) restrictions for a proposed residential redevelopment at 39 South Bay Road, South Bay, Hong Kong (the Site). The current proposal comprises a 4-storey residential block over a 2-storey podium for carpark, plant rooms, caretaker's office/quarters and ancillary recreational facilities. The proposed development will have a GFA of about 1,204.2m<sup>2</sup>, equivalent to a PR of 0.9 and a SC of 28%. The location of the Site is shown on **Plans A-1 and A-2**.

1.2 The Site is the subject of a previous application No. A/H17/129 for minor relaxation of BH to accommodate an additional mechanical floor at the podium. The application was approved with conditions by the Metro Planning Committee (the Committee) of the Town Planning Board (the Board) on 11.10.2013. An Occupation Permit (OP) for the subject development was subsequently issued by the Building Authority (BA) on 7.12.2016. A comparison of the existing building and the current proposal is summarised below:

<b>Development Parameters</b>	<b>Existing Building<sup>1</sup></b> (Previously approved application No. A/H17/129)	<b>OZP Restrictions</b> <b>[a]</b>	<b>Current Proposal</b> <b>No. A/H17/140</b> <b>[b]</b>	<b>Changes</b> <b>[b] - [a]</b>
Site Area	1,338 m <sup>2</sup>	-	1,338 m <sup>2</sup>	-
PR (resultant GFA)	0.9 (1,204.071 m <sup>2</sup> )	0.9 (1,204.2 m <sup>2</sup> )	0.9 (1,204.2 m <sup>2</sup> )	no change
SC (domestic portion)	22.383 %	22.5 %	28 %	+5.5% (+24.4%)
BH <sup>2</sup>	4 storeys over 1 storey of mechanical floor and 1 storey of carports	4 storeys in addition to 1 storey of carports	4 storeys over 1 storey of mechanical floor with ancillary clubhouse and 1 storey of carports	an additional storey of mechanical floor with ancillary clubhouse
No. of Blocks	4 houses	-	1 block with 4 domestic units	-
Car Parking Spaces	6 (including 1 disabled)	-	6 (including 1 disabled)	-

Note:

1. The development parameters are based on the approved building plans
2. BH restriction at the subject "R(C)5" zone is defined in maximum number of storey. According to the current proposal, the proposed BH is at 51.40mPD which is the same as that of the existing building.

1.3 The applicant proposes to retain the existing podium structure with a minor extension into the slope to accommodate ancillary recreational facilities, caretaker's office/quarters, plant rooms and car park. For the residential block, a stepped terraces design will be adopted, with a proposed setback of a

minimum of 6.31m from the western site boundary facing South Bay Road (**Drawing A-13**). According to the Landscape Master Plan (LMP) and Tree Preservation and Removal Proposal submitted by the applicant (**Drawing A-10**), the existing green wall of the podium facing South Bay Road will be maintained.

- 1.4 The floor plans, section plan, LMP and photomontages of the proposed development submitted by the applicant are shown in **Drawings A-1 to A-12**. A comparison of the sections of the existing building and the current proposal is shown on **Plan A-6**.
- 1.5 In support of the application, the applicant has submitted the following documents:
  - (a) Application form received on 6.8.2019 **(Appendix I)**
  - (b) SPS **(Appendix Ia)**
  - (c) Supplementary information dated 14.8.2019 **(Appendix Ib)**
  - (d) Further Information (FI) dated 11.9.2019 **(Appendix Ic)**  
*(accepted and exempted from publication and recounting requirement)*
  - (e) FI dated 16.9.2019 **(Appendix Id)**  
*(accepted and exempted from publication and recounting requirement)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 5 of the SPS at **Appendix Ia** and the FIs at **Appendices Ic and Id**. They can be summarised as follows:

- (a) as the existing podium structure will be retained, the minor relaxation of BH sought merely reflects the existing storey of mechanical floor above the carport. It allows for adaptive reuse of the existing podium structure and development platform as far as possible whilst integrating ancillary facilities for the safety and welfare of future residents;
- (b) the proposed minor relaxation of SC will allow more design flexibility in the domestic block to soften the building bulk and to enable a development that can better fit in with the prestigious setting and local character. It is well within the maximum permissible levels of SC stipulated in the Hong Kong Planning Standard and Guidelines. The application is in accordance with both the statutory planning intention and the TPB Guidelines, which is well precedented and will provide similar benefits to the area;
- (c) the proposed scheme allows for a more organic form with terraced balconies which is an improvement to the ridged design of the existing development. It integrates a stepped profile on the eastern side with vertical articulations (i.e. recesses and protrusions) on the western portion and that the residential block is set back further from the road than the existing development. Where possible, greening opportunities are also integrated on the G/F and along the private balconies on the upper floors and roof. The proposed building orientation,

building setback and landscape elements have all been carefully designed and assessed to make the redevelopment appear insignificant and consistent with neighbouring residential developments;

- (d) it is evident from the photomontage that the proposed redevelopment is compatible from its surroundings, as there is no change in BH and the bulk is largely consistent with the existing development. The design and disposition of the domestic block is also an improvement to visual impact as the perceived bulk and overshadowing of South Bay Road is reduced;
- (e) the landscape design seeks to preserve existing natural environment as far as possible, but a total 18 nos. of trees within the Site are proposed to be felled as a result of the redevelopment. Compensatory trees will be provided 1:1 in terms of quantity. A minimum of 20% greenery is provided which is compliance with the Sustainable Building Design Guidelines of APP-152;
- (f) there will be no adverse impact on road network or other infrastructural provision. The GPRR concludes that geotechnical and foundation works for the proposed residential development are considered feasible with the implementation of the slope stabilisation measures for rock cutting and existing retaining walls; and
- (g) efforts have been made to retain the podium structure, thereby reducing the construction and demolition (C&D) waste by more than a half. The main contractor of the project will be instructed to implement a construction/demolition waste management system in order to provide sorting, recycling and proper disposal of construction/demolition materials. Dust and noise control measures will be implemented during the construction phase where appropriate.

### **3. Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is the sole “current land owner”. Detailed information will be deposited at the meeting for Members’ inspection.

### **4. Town Planning Board’s General Guidelines**

On 24.3.2000, the Board agreed as a general guideline, to adopt the relaxation of the maximum domestic SC to 66.6% and 50% respectively for sites falling within Residential Zone 2 and Residential Zone 3 Areas in the Metro and New Town areas and to 40% for sites in the rural areas and those falling within Residential Zone 4 Area in the New Towns. Whilst it has been considered inappropriate to allow a blanket relaxation of SC in the Shouson Hill and Repulse Bay area having regard to the site characteristics and other considerations in the area, applications which satisfy the following criteria and which are considered acceptable to the concerned Government departments will be considered by the Board:

- (a) the relaxation of SC restriction does not exceed the maximum permissible levels adopted by the Board;

- (b) the relaxation is solely for the purpose of design flexibility;
- (c) other development parameters including PR/GFA and BH do not exceed the stated restrictions on statutory plan; and
- (d) the resultant SC does not exceed the level permissible under the Building (Planning) Regulations (B(P)R).

## **5. Previous Application**

The Site is the subject of a previous application No. A/H17/129, submitted by the same applicant, for minor relaxation of BH restriction from 4 storeys in addition to 1 storey of carports to 4 storeys in addition to 1 storey of mechanical floor and 1 storey of carports for house development, with a PR and SC not exceeding 0.9 and 22.5% respectively. The application was approved with conditions by the Committee on 11.10.2013 on the considerations that the proposed development would maintain a development intensity that is permitted under the “R(C)5” zone; it would not pose any adverse impact on the existing infrastructure and amenity facilities in the area, and planning merits of additional setback for landscape/tree planting along South Bay Road with vertical greenings and special façade design, as well as the road widening and resurfacing of the existing footpath, are recognised. The OP for the subject development was issued by BA on 7.12.2016. A summary of the previous application is at **Appendix II**.

## **6. Similar Applications**

- 6.1 There were a total of 28 similar applications for minor relaxation of SC/BH restrictions in the Shouson Hill and Repulse Bay area that had been considered by the Committee or the Board on review after the Board agreed to adopt the relaxation of the maximum domestic SC in March 2000. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Among these similar applications, 24 were for minor relaxation of SC restriction to allow design flexibility and variation in height. They were all approved with conditions by the Committee in accordance with the Board’s guidelines as outlined in paragraph 4 above.
- 6.3 The remaining 4 applications (No. A/H17/68, A/H17/92, A/H17/93 and A/H17/119) were for minor relaxation of BH restriction. They were approved with conditions by the Committee or the Board on review mainly on similar considerations that the minor relaxation would allow flexibility in terms of building design, there were planning/design merits in the development proposal, no adverse visual impact, and/or development intensity that is permitted under the “R(C)” zone is maintained and that no adverse impact on the existing infrastructure and amenity facilities.

**7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and photos on Plans A-4 to A-5)**

7.1 The Site is:

- (a) currently occupied by a residential development (i.e. Bay View Villa) comprises 4 houses with 4 domestic storeys over 1 storey of mechanical floor and 1 storey of carports;
- (b) the northern portion of the Site is a vegetated man-made slope; and
- (c) the run-in/out is situated at the western portion of the Site abuts South Bay Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the north and north-west along South Bay Road are clusters of low-rise and low-density luxurious residential developments;
- (b) to the south-west across South Bay Road is Middle Bay Beach; and
- (c) to the east and south bounded by vegetated slopes zoned “Green Belt” (“GB”).

**8. Planning Intention**

The “R(C)5” zone is intended primarily for low-rise and low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

**9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

**Land Administration**

9.1.1 Comments of the District Lands Officer/Hong Kong West and South, Lands Department:

- (a) the subject lot (RBL 1168) is governed by Conditions of Sale No. 20153 dated 30.12.2011 (the Lease). The Lease contains restrictions on maximum SC and BH, i.e. Special Conditions No. (9)(d) and (9)(e); and
- (b) according to the application, the proposed relaxation of maximum SC and BH would contravene Special Conditions No. (9)(d) and (9)(e) of the Lease. Should the proposed relaxation of SC and BH be approved by the Board, the lot owner should be reminded that a lease modification would be

required to implement the proposal. Upon receipt of such application, LandsD will consider the application in its private capacity as a landlord. There is no guarantee that a lease modification will be approved. If approved, the proposed redevelopment will be subject to such terms and conditions, to be imposed by LandsD at its sole discretion.

### **Urban Design and Visual**

#### 9.1.2 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) the applicant proposes to replace existing houses with a 4-storey residential block with a SC of 28% exceeding the permissible restriction, while the additional storey is for clubhouse and plantrooms. The applicant claims the proposal brings about 'greater architectural articulation and a less rigid design' with terraced balconies and set back of the residential block from South Bay Road for visual amenity and allowing space for garden. With reference to paragraph 7.3.3 of the Explanatory Statement of the OZP, the purpose of allowing minor relaxation of SC and BH restrictions is to encourage imaginative designs which are adapted to the characteristics of particular sites and meeting the planning objectives of preserving existing amenities and characters of the area, significant public views and to avoid excessive development. The proposal requiring additional SC and BH for accommodating the residential domestic block and ancillary facilities may be considered as design flexibility for justifying the minor relaxation; and
- (b) the Site is situated at the coastline of Middle Bay consists predominately of Middle Bay Beach, well-wooded slopes and low-density residential developments which gives the area a high landscaping/amenity value. The Site is bounded by vegetated slopes to the east and south zoned "GB" and faces Middle Bay towards the east across South Bay Road. Low-rise residential developments of 3 to 5 storeys are situated to the north and northeast. Judging from the photomontages submitted, the scale and height of the proposed development is considered to be in line with the low-rise character and visual amenity of the area.

#### 9.1.3 Comments of the Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD):

- (a) no comment from architectural and visual impact point of view; and
- (b) based on the information provided, it is noted that the proposed development involves no change in BH with adjustment of building configuration and overall massing as compared to the

previous approved scheme. It is also noted that the proposed development consists of a 4-storey building block over 2-storey podium for carports, recreational facilities and plant rooms which may not be incompatible with the BH restriction of 4 storeys in addition to 1 storey carport as permitted in the OZP.

### **Landscape**

#### 9.1.4 Comments of CTP/UD&L, PlanD:

- (a) no objection to the application from the landscape planning perspective;
- (b) according to the submitted information, the Site is located to the east of South Bay Road and sits on an original hillside dipping towards the western seaside. The Site is situated in an area of 'Coastal Uplands and Hillsides' character. Low-rise buildings are located to the north of the Site within the same "R(C)5" zone, whilst dense tree groups in "GB" zone are observed to the northeast, east and south of the Site. The proposed development is considered not incompatible with the existing landscape character;
- (c) it is noted that the existing podium structure including the building facade is proposed to be retained in the new development. The building facade forms a huge wall surface of 50-m-long and 10-m-high facing South Bay Road. Although the existing vertical metal grilles and vertical green walls are proposed to be maintained in-situ, there are scope to provide further landscape treatments, particularly by means of vertical greening, on the podium facade to soften the wall surface and enhance the overall landscape quality in the public realm;
- (d) should the Board approve this application, approval condition requiring the provision of vertical greening on the podium façade facing South Bay Road is recommended to be included in the planning permission; and
- (e) the applicant should be advised that approval of the application does not imply approval of trees works including tree pruning, transplanting and felling proposal.

#### 9.1.5 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

no comment on the application from geotechnical engineering point of view.

### **Building Matters**

#### 9.1.6 Comments of the Chief Building Surveyor/Hong Kong West,



Buildings Department:

- (a) no objection in-principle to the application under the Buildings Ordinance;
- (b) building plans for the proposed redevelopment had not been submitted to his department for approval since the OP had been issued on 7.12.2016;
- (c) applicant's attention is drawn to the provision of PR and SC under the First Schedule of B(P)R;
- (d) regarding the proposed floor heights, the applicant may wish to refer PNAP APP-5; and
- (e) detailed comments under the Buildings Ordinance on the development will be provided when the building plans are submitted to his department for approval.

**Environment**

9.1.7 Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application from environmental planning perspective and does not require any approval condition;
- (b) as stated in the application documents, there is no change to the GFA or number of units as compared with the previous application No. A/H17/129; and
- (c) it is noted that the proposal involves demolition of the existing structures and excavation works. As such, the applicant is advised to minimise the generation C&D materials, reuse and recycle the C&D materials on-site as far as possible, and observe and comply with the legislative requirements and prevailing guidelines on proper waste management for the proposed development.

**District Officer's Views**

9.1.8 Comments of the District Officer (Southern), Home Affairs Department:

- (a) no comment on the application; and
- (b) did not receive any comment from the public during the public inspection period.

9.2 The following Government departments have no comment on the application:

- (a) Commissioner for Transport (C for T);
- (b) Director of Fire Services;

- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (d) Director of Agriculture, Fisheries and Conservation;
- (e) Director of Leisure and Cultural Services;
- (f) Chief Engineer/Development (2), Water Supplies Department;
- (g) Chief Highway Engineer/Hong Kong, Highways Department;
- (h) Commissioner of Police; and
- (i) Director of Electrical and Mechanical Services.

#### **10. Public Comments Received During Statutory Publication Period**

On 16.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.9.2019, three public comments from the individuals were received raising objection to the application (**Appendix IV**). They are mainly on the grounds that there is no public gain to benefit the local community; the proposed development is out of character and not compatible with the surrounding neighborhood; approval of the application will set an undesirable precedent; and the development is small in scale and that the proposed private clubhouse is not efficient.

#### **11. Planning Considerations and Assessment**

- 11.1 The application is to seek planning permission for minor relaxation of SC and BH restrictions for a proposed residential redevelopment under the “R(C)5” zone. According to the applicant, the existing 2-storey podium structure will be retained and converted for carports, plant rooms and ancillary recreational facilities, whilst the existing 4 houses above the podium will be redeveloped into a single residential block for 4 units with a SC of 28%. The applicant proposed to maintain the existing vertical greenings and special façade design of the existing podium facing South Bay Road under the previously approved application No. A/H17/129. Additionally, the proposed development has also incorporated a number of new design elements including the stepped terraced balconies and further setback of the residential block (i.e. 6.31m from the western boundary of the Site) to minimise the building bulk from the pedestrian level along South Bay Road.
- 11.2 The proposed residential redevelopment with the relaxed SC and BH is considered not incompatible with the character of surrounding areas which are predominantly low-rise residential developments. The proposed BH of the current scheme is as same as the BH of the existing building (i.e. 4 storeys above a 2-storey podium), while the proposed relaxation of SC from 22.5% to 28% does not exceed the maximum permissible level adopted by the Board (i.e. 50% for sites falling within Residential Zone 3). Both CA/CMD2, ArchSD and CTP/UD&L, PlanD have no adverse comment on the application from visual and urban design perspectives.
- 11.3 It is noted that the existing vertical green walls facing South Bay Road would be retained in-situ to soften the wall surface and enhance the overall landscape quality in the public realm. The stepped terraced balconies and further setback of the residential block would also minimise the building bulk from the pedestrian level along South Bay Road. The proposed development is

considered to have design merits and would enhance the environment of the neighbourhood area. Besides, the proposed relaxation of SC is to allow design flexibility and adding interest to the built form of the area. Hence, it is considered generally in line with the criteria set out in the Board's general guidelines for SC relaxation as mentioned in paragraph 4 above.

- 11.4 It is also anticipated that the proposed development would not cause any adverse traffic, environmental and geotechnical impacts to the surrounding neighbourhood. Relevant departments consulted including C for T, DEP and H(GEO), CEDD have no comment on or no objection to the application. To address DEP's concern on waste management during the construction phase, relevant advisory clause is recommended to remind the applicant to minimise the generation of C&D materials, reuse and recycle the C&D materials on-site as far as possible.
- 11.5 Since 2000, the Committee has approved a total of 24 similar applications for minor relaxation of SC in the Shouson Hill and Repulse Bay area. The approval of the subject application is not inconsistent with previous decisions of the Committee.
- 11.6 As regards the adverse public comments, assessments made in paragraphs 11.2 to 11.5 above are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 above and having taken into account the public comments in paragraph 10 above, PlanD has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.10.2023, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following approval condition and advisory clauses are suggested for Members' reference:

### Approval condition

the provision of vertical greening on the podium façade facing South Bay Road to the satisfaction of the Director of Planning or of the Town Planning Board.

### Advisory clauses

the recommend advisory clauses are attached at **Appendix V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' consideration:

there are insufficient planning and design merits to justify the proposed minor relaxation of SC restriction for the proposed development.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

**14. Attachments**

<b>Appendix I</b>	Application form received on 6.8.2019
<b>Appendix Ia</b>	SPS
<b>Appendix Ib</b>	Supplementary information dated 14.8.2019
<b>Appendix Ic</b>	FI dated 11.9.2019
<b>Appendix Id</b>	FI dated 16.9.2019
<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Public comments
<b>Appendix V</b>	Advisory clauses
<b>Drawings A-1 to A-8</b>	Layout plans submitted by the applicant
<b>Drawing A-9</b>	Section plan submitted by the applicant
<b>Drawing A-10</b>	Landscape master plan
<b>Drawings A-11 to A-12</b>	Photomontages
<b>Drawing A-13</b>	Proposed setback for the residential block
<b>Plans A-1 and A-1a</b>	Location plans
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4 and A-5</b>	Site photos
<b>Plan A-6</b>	Section plans of the existing building and the current proposal