

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K14/757

- Applicant** : Charm Step Development Limited represented by Ove Arup & Partners Hong Kong Limited
- Site** : 350 Kwun Tong Road, Kwun Tong, Kowloon
- Site Area** : 1,782m²
- Lease** : (a) Kwun Tong Inland Lot (KTIL) No. 531 (the Lot)
(b) Restricted for industrial and/or godown purposes excluding any offensive trades
(c) Maximum height of any structure on the Lot shall not exceed 170ft (i.e. 51.8m) above Principal Datum
(d) The ground floor of the 10ft (3.05m) wide strip of the Lot abutting Hang Yip Street shall be used for parking, loading and unloading (L/UL) of motor vehicles only. Building may however be erected over the area provided that there is a vertical clearance of 15ft (4.57m) from the ground floor
(e) No vehicular access to or from Lai Yip Street and Kwun Tong Road
- Plan** : Draft Kwun Tong (South) Outline Zoning Plan (OZP) No. S/K14S/21
- Zoning** : “Other Specified Uses” annotated “Business” (“OU(B)”)
- (a) Maximum plot ratio (PR) of 12.0 and maximum building height (BH) of 100 meters above Principal Datum (mPD), or the PR and height of the existing building, whichever is the greater
- (b) Based on the individual merits of a development or redevelopment proposal, minor relaxation of the PR/BH restrictions stated in the Note of the OZP may be considered by the Town Planning Board (the Board) on application under s.16 of the Town Planning Ordinance (the Ordinance)
- Application** : Proposed Minor Relaxation of BH Restriction for Proposed Development for Office, Shop and Services & Eating Place Uses

1. The Proposal

- 1.1 The applicant seeks planning permission for minor relaxation of BH restriction from 100mPD as stipulated on the draft Kwun Tong (South) OZP to 105.9mPD (i.e. +5.9m (+5.9%, or increase by 6.2% if measured in terms of absolute BH from the ground level at 4.2mPD) for a proposed 26-storey (including 2 basement levels) commercial development at 350 Kwun Tong Road (the Site), which is zoned “OU(B)” on the OZP. The proposed development includes ‘Office’, ‘Shop and Services’ and ‘Eating Place’ uses which are always permitted under Schedule 1 of the Notes for “OU(B)” zone (**Plan A-1**). The Site is currently occupied by a

8-storey industrial building.

- 1.2 The proposed minor relaxation of BH restriction is for incorporating a 5.9m high refuge floor cum communal sky garden on 12/F. In accordance with the Joint Practice Note (JPN) No. 1 for “Green and Innovative Buildings” and JPN No. 2 for “Second Package of Incentives to Promote Green and Innovative Buildings”, issued jointly by the Buildings Department (BD), Lands Department (LandsD) and the Planning Department (PlanD), communal sky garden (including refuge floor cum sky garden) may be exempted from gross floor area (GFA) and/or site coverage (SC) calculations under the Buildings Ordinance (BO). For refuge floor cum sky garden that results in an increase in BH exceeding the restriction on the OZP, it would require an application to the Board for minor relaxation of the BH restriction.
- 1.3 In order to widen the existing pedestrian pavement along Lai Yip Street and to provide pavement along Hang Yip Street, the proposed development has incorporated full height building setbacks with 1.9m and 4m in width respectively from the lot boundary abutting the two streets (**Drawing A-3**) in accordance with the setback requirements as shown on the Kwun Tong (Western Part) Outline Development Plan (ODP)¹ (**Plan A-2**). The proposed PR for the development is 12 which is within the OZP restriction for the “OU(B)” zone.
- 1.4 Floor plans and diagrammatic section as submitted by the applicant are at **Drawings A-1 to A-9**. Major development parameters of the indicative development scheme (the Scheme) are as follows:

Major Development Parameters	Proposed Commercial Development
Uses	Office, Shop and Services & Eating Place
Site Area	1,782m ²
PR	12
GFA ²	
- Office	17,970m ²
- Shop and Services & Eating Place	3,414m ²
- Total	21,384m ²
SC	G/F : about 77.4% [1,380m ²] 1/F – 3/F : about 81.4% [1,450m ²] Typical floor (4/F – 23/F) : about 52.2% [930m ²]
No. of Blocks	1
No. of Storeys	24 storeys above ground (including 23 commercial floors and 1 storey of refuge floor cum sky garden) plus 2 storeys of basement carpark
BH	105.9mPD (at main roof)

¹ ODPs are departmental plans used administratively within Government to guide development. Although these plans carry no statutory effect, they are binding on all government departments and are used as a basis for works including formulation/modification of lease conditions. The planning intention of the setbacks as shown on the ODP is for provision of amenity, green corridor and wider pedestrian pavement.

² Exclude the GFA for the refuge floor cum sky garden that may be exempted from GFA calculation upon Building Authority’s approval under BO.

Major Development Parameters	Proposed Commercial Development
Greenery provision	about 500 m ² (including 150m ² at the refuge floor cum sky garden)
No. of Parking Spaces	
- Private Car	96
- Motorcycle	10
- Heavy Goods Vehicle (HGV)	3
- Light Goods Vehicle (LGV)	6
No. of L/UL Bays	6

- 1.5 The main uses by floor of the proposed development and the floor-to-floor height are summarized as follows:

Floor	Main Uses	Floor Height (m)
B2/F & B1/F	Carpark	3.2 - 5.2
G/F	L/UL Bays, Entrance Foyer, Shop and Services	5.9
1/F	Office Entrance, Shop and Services	4.55
2/F	Shop and Services	4.55
3/F	Open Carpark, Office	4
4/F - 23/F (exclude 12/F)	Office	4 (4.2 for 22/F & 23/F)
12/F	Refuge Floor cum Sky Garden	5.9

- 1.6 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 1.3.2018 **(Appendix I)**
- (b) Supporting Planning Statement received on 1.3.2018 **(Appendix Ia)**
- (c) Replacement pages to application form and architectural plans vide applicant's letter received on 1.3.2018 **(Appendix Ib)**
- (d) Letter from the applicant received on 9.4.2018 providing responses to departmental comments **(Appendix Ic)**
- (e) Letter from the applicant received on 12.4.2018 providing responses to departmental comment **(Appendix Id)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out in Section 5 of the Supporting Planning Statement at **Appendix Ia** and the FIs dated 9.4.2018 and 12.4.2018 at **Appendices Ic** and **Id**, and summarized as follows:

Minimized Increase in BH and Compatible with Stepped BH Profile in the Area

- (a) Efforts have been made in minimizing the increase in BH as far as possible. While the current standard floor height for a Grade A office building of 4.5m, the Scheme has adopted a floor-to-floor height at a range of 4.0m to 4.2m (**Drawing A-9**) so as to minimize the overall BH while satisfying the operational needs of a Grade A office development. The proposed minor relaxation of BH restriction is to accommodate a communal sky garden on 12/F, which has the overall height

minimized to 5.9m by combining the green features with the refuge floor. Its 4.5m clear height fulfils the minimum requirement for provision of communal sky gardens for non-residential buildings as set out in JPN No. 2. An additional 1.4m floor height is mainly reserved for the provision of mechanical and electrical services and structural members.

- (b) The proposed minor relaxation of BH restriction only seeks benefits for prominent development with the incorporation of a communal sky garden. The proposed increase of BH by about 5.9% in terms of mPD is still compatible with and would preserve the stepped BH profile at the Site and its surrounding area. No adverse impact on nearby developments is anticipated.
- (c) The proposed refuge floor cum communal sky garden has complied with the criteria as specified in “Code of Practice for Fire Safety in Buildings 2011” (FS Code) and all pre-requisite requirements as stated in the JPNs, including compliance with requirement on both mean of escape and fire resisting construction; all garden furniture/equipment are firmly fixed and are non-combustible; and not used for commercial activities/activities involving use of naked fire.

Fulfilling Criteria for Minor Relaxation of BH Restrictions

- (d) According to the Explanatory Statement (ES) of the OZP, a minor relaxation clause in respect of the BH restrictions is incorporated into the Notes in order to provide incentive for development/redevelopments with design merits/planning gains. The Scheme fulfils three out of the six criteria for consideration of such relaxation, including providing better streetscape/good quality street level public urban space; providing separation between buildings to enhance air ventilation and visual permeability; and innovative building design and planning merits that would bring about improvements to townscape and amenity of the locality.

Visual Permeability and Social Benefits

- (e) Visual impact assessment (VIA) of the Scheme (**Drawings A-10 to A-15**) shows general enhancement of the visual quality by offering visual relief and furnishing a less bulky presentation. The communal sky garden provides more greenery (with an increase from about 350m² to 500m² (+43%)) and visual interest to the cityscape. Moreover, serving as an urban window, it also improves building permeability and enhances natural ventilation of the building.
- (f) Complemented with ample landscaping, a refreshing ambience will be created at the communal sky garden that provides tenants and visitors with an alternative place for relaxation and social gathering.

Realizing Setback Requirements

- (g) The setback requirements as stipulated on the ODP would be incorporated upon redevelopment of the Site. The Scheme would facilitate the realization of the long planned building setbacks proposal and help create a pleasant streetscape and walking environment.

In Line with Planning Intention and Facilitate Transformation of Kwun Tong Business Area (KTBA)

- (h) The Scheme is in line with the planning intention and the PR restriction as set out in the OZP. The proposed uses would facilitate the phasing out of polluting industrial uses by replacing the deteriorating industrial building with a new commercial building of more desirable architectural design, thereby enhancing the urban quality of the Site and its surrounding area.
- (i) The Scheme is intended to establish a prominent retail and office venue at the Site that provides opportunity to diversify local job opportunities and assist local economic transformation. It would create a desirable precedent and spearhead redevelopment along Lai Yip Street, eventually enliven the largely industrial part in Ngau Tau Kok of the KTBA, and enable this area to create better synergy effects with the remaining parts of the KTBA and even Kowloon East.

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

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

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Development within “OU(B)” Zone (TPB PG-No. 22D) promulgated in September 2007 is relevant in the following aspects:

- (a) the “OU(B)” zone has been introduced to allow maximum flexibility in the use of existing industrial and industrial-office (I-O) buildings as well as in the development of new buildings for both commercial and clean industrial uses. The planning intention of the “OU(B)” zone is primarily for general employment uses. As it is not possible to phase out existing polluting and hazardous industrial uses all at once, it is necessary to ensure compatibility of the uses within the same building and in existing industrial areas until the whole area is transformed to cater for the new non-polluting business uses; and
- (b) for all new development, redevelopment, conversion and material change of use, adequate parking and L/UL spaces should be provided in accordance with the requirements of the Hong Kong Planning Standards and Guidelines (HKPSG), and all other statutory or non-statutory requirements of relevant Government departments must also be met.

5. Previous Application

- 5.1 The Site is the subject of three previous applications (Nos. A/K14/120, A/K14/277 and A/K14/362) for a 27-storey I-O building, a 29-storey office/restaurant development and a 29-storey commercial/office (C/O) development respectively (with proposed BH of 107.2mPD (first case) or 118.8mPD (latter two cases) at main roof) when the Site was zoned “Industrial”. They were approved with conditions by the Metro Planning Committee (the Committee) on 7.1.1994,

14.3.1997 and 22.9.2000 respectively, all before the stipulation of BH restrictions for KTBA in 2005. These permissions however lapsed since the permitted developments were not commenced before the expiry of the validity periods.

5.2 No application for minor relaxation of BH restriction at the Site was received previously.

6. Similar Applications

Subject OZP

6.1 There was a similar application (No. A/K14/470) for minor relaxation of BH restriction (from 160mPD to 187mPD, +27m) for a proposed office development at an “OU(B)” site on the same OZP (**Plan A-1**), comprising twin towers of 40 and 43 storeys, both with a refuge floor on Level 19 and Level 17 respectively, above a common 2-storey basement, and incorporating a bonus GFA of 3,279.9m² (equivalent to a bonus PR of 0.368) due to the surrender of part of the site for road widening. It was approved with conditions by the Committee on 13.5.2005 taking into account the fact that previous planning permission (No. A/K14/435) for a proposed office/hotel development up to a BH of 187mPD was granted by the Committee on 14.5.2004, prior to the imposition of a BH restriction of 160mPD for that site on the OZP on 25.2.2005.

Kowloon East Area

6.2 There were three similar applications for minor relaxation of BH restriction, each to incorporate a 6m communal sky gardens in proposed C/O developments on “OU(B)”/“OU(B)1” sites (**Plan A-1**) in the adjoining Kowloon Bay Business Area (KBBA). These three applications (No. A/K13/212, A/K13/217 and A/K13/232) for proposed minor relaxation of BH restriction (from 120mPD to 126mPD (+6m), from 170mPD to 173mPD (+3m) and from 120mPD to 126mPD (+6m), respectively) were approved with conditions by the Committee on 16.6.2006 and 9.3.2007 (for the first two cases respectively) and by the Board upon review on 12.9.2008 (for the third case). These planning permissions were grant on the grounds that the proposed sky garden was in line with the JPNs for promoting green features that would enhance the visual quality of the building façade and provide more greenery to the cityscape; and the proposed typical floor heights (i.e. 4.05m, 4m, and 4.18m to 5.14m, respectively) were considered reasonable.

7. The Site and Its Surrounding Areas (Drawings A-3, A-10 to A-15, Plans A-1 to A-4 and photos on Plans A-5 to A-6)

7.1 The Site is:

- (a) occupied by a 8-storey industrial building, namely, Maxwell Industrial Building built in 1967 (**Plan A-5**);
- (b) bounded by Kwun Tong Road to its northeast, Lai Yip Street to its southeast and Hang Yip Street to its northwest, and adjoining an existing industrial building, namely United Overseas Plaza (**Plans A-3 and A-5**) (with BH of

about 47mPD), to its southwest; and

- (c) at about 100m southwest to the MTR Ngau Tau Kok Station (**Plan A-1**).

7.2 The surrounding areas have the following characteristics (**Plan A-3**):

- (a) the neighbouring buildings along Kwun Tong Road, Lai Yip Street and Hang Yip Street are mainly industrial or I-O buildings;
- (b) four existing C/O buildings, namely, Tsui Wah Group Centre (with BH of about 26mPD), C-Bons International Centre, MG Tower and Rykadan Capital Tower (all with BH of 100mPD), are located to the south at the corner of Lai Yip Street/Hung To Road, and to the further south along Hoi Bun Road;
- (c) three C/O buildings under construction are found to the west across Hang Yip Street, to the further southwest across Wai Yip Street, and to the further east at 368 Kwun Tong Road (with proposed BH of 100mPD for the former two buildings and BH of 147mPD for the last building under the approved building plans); and
- (d) a C/O building, namely, 133 Wai Yip Street (with BH of about 49mPD), which has undergone wholesale conversion from an industrial building, is located to the south at the corner of Lai Yip Street/Wai Yip Street.

8. Planning Intention

- 8.1 The planning intention of the “OU(B)” zone is primarily for general business uses. A mix of information technology and telecommunications industries, non-polluting industrial, office and other commercial uses are always permitted in new “business” buildings. Less fire hazard-prone office use that would not involve direct provision of customer services or goods to the general public is always permitted in existing industrial or I-O buildings.
- 8.2 The BH restrictions for KTBA were incorporated on the draft Kwun Tong (South) OZP No. S/K14S/11 on 25.2.2005 to preserve the views to the Kowloon Ridgelines from the vantage points recommended in the Urban Design Guidelines Study, taking into account the local area context and the need to maintain visually compatible building masses in the wider setting. Four height bands of 100mPD, 130mPD, 160mPD and 200mPD are imposed for the “Commercial (1)” and “OU(B)”/“OU(B)1” zones covering the commercial, business and industrial developments in KTBA that help achieve a stepped height profile for visual permeability, reduce the solidness of KTBA and maintain a more intertwined relationship with the Victoria Harbour edge. For the sites which are closer to the harbourfront, i.e. those to the south of Hung To Road and to the west of Lai Yip Street and south of Kwun Tong Road (including the Site), a BH restriction of 100mPD is adopted, while higher BHs from 130mPD to 200mPD are allowed for sites on the inland part of KTBA (**Plan A-4**).
- 8.3 As stated in the ES of the OZP, to provide incentive for development/redevelopments with design merits/planning gains, each application for minor relaxation of BH restriction under section 16 of the Ordinance will be considered

on its own merits and the relevant criteria for consideration of such relaxation are as follows:

- (a) amalgamating smaller sites for achieving better urban design and local area improvements;
- (b) accommodating the bonus plot ratio granted under the BO in relation to surrender/dedication of land/area for use as public passage/street widening;
- (c) providing better streetscape/good quality street level public urban space;
- (d) providing separation between buildings to enhance air ventilation and visual permeability;
- (e) accommodating building design to address specific site constraints in achieving the permissible plot ratio under the Plan; and
- (f) other factors such as the need for tree preservation, innovative building design and planning merits that would bring about improvements to townscape and amenity of the locality, provided that no adverse landscape and visual impacts would be resulted from the innovative building design.

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/Kowloon East (DLO/KE), LandsD:

- (a) No objection to the application.
- (b) The Site falls within KTIL 531 (“the Lot”) which is held under Conditions of Sale No. 9055 dated 29.11.1965 as varied and modified by a Modification Letter dated 19.5.1969 (hereinafter collectively “the Conditions”). The Conditions contains, inter alia, the following restrictions:
 - (i) the Lot is restricted for industrial and/or godown purposes excluding any offensive trades;
 - (ii) maximum height of any structure on the Lot shall not exceed 170ft (i.e. 51.8m) above principal datum;
 - (iii) the G/F of the 10ft (3.05m) wide strip of the Lot abutting Hang Yip Street shall be used for parking, L/UL of motor vehicles only. Buildings may however be erected over the area provided that there is a vertical clearance of 15ft (4.57m) from G/F; and
 - (iv) no vehicular access to or from Lai Yip Street and Kwun Tong Road.

- (c) The proposed development of a commercial building with a BH of 105.9mPD is in breach of the Conditions. Should the planning application be approved by the Board, the applicant is required to apply to his office for a lease modification to give effect to the proposal. However, there is no guarantee that the lease modification would be approved and if the application is eventually approved by LandsD in the capacity as landlord at his sole discretion, it will be subject to those terms, including payment of any administration fee and premium, as imposed by LandsD.
- (d) A discrepancy is noted for the site area of 1,782m² as quoted in the planning application. Under the Conditions, the site area is 19,180ft² (i.e. 1,781.865m²). By adopting the maximum PR permitted under the OZP, the maximum GFA for the proposed development should be revised accordingly.

Building Matters

9.1.2 Chief Building Surveyor/Kowloon (CBS/K), BD has no comment on the application, and he considers that the proposal is acceptable in principle under BO but the detailed comments can only be provided at the building plan submission stage.

Traffic

9.1.3 Comments of the Commissioner for Transport (C for T):

- (a) No objection in principle to the application for minor relaxation of BH from traffic engineering point of view.
- (b) As no detailed assessments on vehicular access arrangement and parking and L/UL provisions are provided, approval condition requiring the provision of such traffic-related facilities should be imposed.

Fire Safety

9.1.4 Comments of the Director of Fire Services (D of FS):

- (a) No objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.
- (b) As no details of the emergency vehicular access (EVA) have been provided, comments could not be offered by his department at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the FS Code which is administered by the BD.

Environment

9.1.5 Comments of the Director of Environment Protection (DEP):

- (a) No objection to the application.
- (b) The FI (**Appendix Ic**) confirms that central air-conditioning system will be provided for the proposed development and openable window will not be relied for ventilation. The fresh air intake point of the air conditioning system will also be properly located to meet the buffer distance requirement for vehicular emissions as stipulated in the HKPSG.
- (c) the Site is currently occupied by an 8-storey industrial building and will be redeveloped into 26-storey commercial development. Insurmountable sewerage impacts are not anticipated. Notwithstanding this, in view of the change in land use to commercial, shops and eating places, the applicant is required to carry out a Sewerage Impact Assessment (SIA) to assess any potential impacts on the local/nearby public sewers and recommend appropriate mitigation measures for implementation, if necessary. An approval condition on submission of SIA is required for the application, should it be approved by the Committee.

Drainage Aspect

9.1.6 Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no objection to the application, subject to incorporation of approval condition requiring the submission of a SIA and the implementation of the local sewerage connection works identified in the SIA.

Architectural Aspect

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

Based on the information provided, it is noted that the proposal involves minor relaxation of BH restriction from 100mPD to 105.9mPD. The proposed use, development massing and intensity may not be incompatible with adjacent business developments with BH restriction of 160mPD. In this regard, he has no comment from visual impact point of view.

Urban Design and Visual Aspects

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

- (a) It is noted that the additional BH sought, i.e. 5.9m is to accommodate a sky garden (with clear headroom of 4.5m and additional 1.4m for structural needs). It is also noted that the proposed development will provide building setback abutting the frontages of Lai Yip Street and Hang Yip Street as per the requirements of the ODP. The applicant, however, has not provided any information about the landscape

treatment along the setback area.

- (b) It is unlikely that the proposed minor relaxation of BH will cause any negative visual impact as illustrated in the VIA submitted by the applicant. Whilst he has no strong views on the minor relaxation, he would like to suggest the applicant to consider containing all the parking in the basement for freeing up the proposed open carpark/driveway and the associated car lifts for other purposes, including landscape amenity. The applicant should also consider placing the sky garden on a lower floor to provide a better visual correlation with the pedestrian.

Landscape Aspect

9.1.9 Comments of the CTP/UD&L, PlanD:

- (a) The Site is fully occupied by the existing building with no existing vegetation found and the proposed use is not incompatible with the surrounding as well as the existing landscape character. Significant landscape impact arising from the proposed development in the area is not anticipated.
- (b) He has no objection to the application from the landscape planning point of view, subject to the incorporation of appropriate approval condition.

Pedestrian Accessibility and Walkability

9.1.10 Comments of the Head of Energizing Kowloon East Office, Development Bureau (Head of EKEO, DEVB):

- (a) It is noted that the applicant has proposed a full-height setback of 4m wide along Hang Yip Street and 1.9m wide along Lai Yip Street in compliance with the extant ODP. As promulgated in the Policy Agenda in October 2017, the Government will look into the possibility of providing travelators along Lai Yip Street to cater for the forecasted increase in pedestrian flow. To take the initiative forward to promote walkability, a pavement width of about 7m along Lai Yip Street to accommodate travelators would be required. As such, sufficient width of setback upon redevelopment of the lots along this street would be required, rendering the need to review the setback requirements on the ODP for the lots concerned. This would include reviewing the setback requirement along Hang Yip Street, which may be reduced, in order not to pose undue constraints future redevelopment of the lots.
- (b) His office has no comment on the proposed minor relaxation of BH restriction.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/Kowloon, Highways Department;

- (c) Commissioner of Police; and
- (d) District Officer (Kwun Tong), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 9.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.4.2018, two public comments were received from two individuals (**Appendices II(1)** and **II(2)**). The first one provided views that more planning gains should be explored such as modifying the proposed planter at G/F into covered waiting area for pedestrian crossing facilities at the junction of Kwun Tong Road and Lai Yip Street, while G/F shops with street frontage along Lai Yip Street are more desirable because of frequent pedestrian flow. The second one objected to the application on the following grounds:

- (a) The proposed sky garden is suspected to be utilized as additional commercial floor space in the form of a roof top restaurant, which could instead be easily achieved by reducing the number of office floors.
- (b) The planning intention of the OZP and the imposition of BH restrictions might be mocked by similar demands from every development for dubious ‘green’ purposes. A message should be delivered that additional BH and PR are only for exceptional cases but not the norm.

11. Planning Considerations and Assessments

11.1 The application is for minor relaxation of BH by 5.9m from 100mPD to 105.9mPD of a proposed 24-storey (plus 2 basement carpark) commercial development to accommodate a refuge floor cum communal sky garden. The proposed commercial development comprises ‘Office’, ‘Shop and Services’ and ‘Eating Place’ uses that are always permitted under Schedule I of the Notes for the “OU(B)” zone. The proposed uses are in line with the planning intention of the “OU(B)” zone and the transformation taking place in KTBA from industrial to business/ commercial uses.

11.2 While provision of the refuge floor is not a mandatory requirement for the proposed development³, the applicant argued that the Scheme would enhance the quality of the built environment by providing more greenery area and social gathering places for the tenants and visitors. In accordance with JPN No. 2, the sky garden may be exempted from GFA calculation under the BO, but planning permission is required for the additional BH in excess of the OZP restriction. Such application should be assessed on its individual merits with reference to the criteria as set out in paragraph 8.3 above. In accordance with the requirements of the ODP, the proposed development has incorporated building setbacks of 4m and 1.9m wide along Hang Yip Street and Lai Yip Street respectively so as to facilitate provision or widening of pedestrian pavements and/or amenity planting for streetscape improvement (**Drawing A-3**). The concerned departments have no adverse comments on the setback proposal. As pointed out by CTP/UD&L,

³ It is required under the FS Code that refuge floors should be provided for all buildings exceeding 25 storeys in height above the lowest ground storey.

PlanD, it is unlikely that the proposed minor relaxation of BH for the provision of a sky garden with greenery will cause any negative visual impact as illustrated in the VIA submitted by the applicant. In this regard, the proposed development would help provide better streetscape/street level public urban space, enhance air ventilation and visual permeability and improvements to the townscape and amenity of the locality as mentioned in paragraphs 8.3(c), (d) and (f) above.

- 11.3 In terms of visual impact and compatibility, the proposed increase in BH is minor. As advised by CA/CMD2, ArchSD and CTP/UD&L, PlanD and demonstrated in the submitted photomontages (**Drawings A-10 to A-15**), the proposed development with the additional BH may not be incompatible with adjacent business developments and will not result in significant visual impacts on the townscape. In sum, there is no adverse comment on the application from the urban design perspective. The proposed refuge floor cum communal sky garden has a clear headroom of 4.5m, which is the minimum set out in JPN No. 2. The floor to floor height of 4m to 4.2m for the office floors are also considered reasonable with reference to those adopted in modern office buildings. The applicant indicated that the proposed refuge floor cum sky garden has complied with the pre-requisite requirements as stated in the JPNs including all garden furniture/equipment to be provided would be firmly fixed and would not be used for commercial activities. CBS/K, BD considers that the proposal is acceptable in principle under BO.
- 11.4 As claimed by the applicant, the application is for minor relaxation of BH to accommodate the refuge floor cum sky garden and it does not involve any increase in the permitted PR of 12 for the Site. On technical side, relevant Government departments consulted have no adverse comments on the proposed development, subject to incorporation of appropriate approval conditions on the traffic, environmental, sewerage aspects, fire safety and landscape in paragraphs 12.2 below. To ensure implementation of the setback requirement to the satisfaction of the concerned departments, an approval condition on the provision and implementation of the setback proposal is suggested. The detailed comments of TD and EKEO on vehicular access/parking provision and setback proposal could be addressed at the detailed design stage on the basis of the relevant approval conditions.
- 11.5 Planning permissions for commercial developments (No. A/K14/277 and 362) both with a proposed BH of 118.8mPD at the Site were previously granted in 1997 and 2000 when it was zoned "Industrial", but lapsed since they were not commenced before the expiry of their validity periods. A similar application (No. A/K14/470) for minor relaxation of BH restriction for office development (from 160mPD to 187mPD) in KTBA was approved in 2005. In the adjoining KBBA, three other similar cases applied for minor relaxation of BH for incorporating communal sky garden (No. A/K13/212, A/K13/217 and A/K13/232) were approved with conditions by the Committee/the Board on the grounds that the proposed sky garden was in line with the JPNs for promoting green features and enhancing the built environment, and the proposed typical floor heights (in the range of 4m to 5.14m) were considered reasonable. The approval of the application is consistent with the previous decisions of the Committee on similar applications.
- 11.6 Regarding the public comments on the need to explore more planning gain, as well as on the suspected use of the sky garden for commercial purpose, the assessments

in paragraphs 11.2 to 11.5 above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.

12.2 Should the Committee decide to approve the application on the terms of the application as submitted to the Board, it is suggested that the permission shall be valid until 20.4.2022, 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 conditions of approval and advisory clauses are suggested for Members' reference:

Approval conditions

- (a) provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (b) submission of sewerage impact assessment for the proposed development to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (c) implementation of the local sewerage connection works identified in the sewerage impact assessment for the proposed development to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (d) provision of parking facilities, loading/unloading spaces, vehicular access and internal driveway for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (e) submission and implementation of detailed setback proposal to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board; and
- (f) submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix III**.

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

The applicant fails to demonstrate that there are sufficient planning and design merits to justify the proposed relaxation of building height restriction.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or

to 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 applicant.

14. Attachments

Appendix I	Application form received on 1.3.2018
Appendix Ia	Supporting Planning Statement received on 1.3.2018
Appendix Ib	Replacement pages to application form and architectural plans vide applicant's letter received on 1.3.2018
Appendix Ic	Letter from the applicant received on 9.4.2018 providing responses to departmental comments
Appendix Id	Letter from the applicant received on 12.4.2018 providing responses to departmental comments
Appendices II(1) to II(2)	Public comments received during the statutory publication period between 9.3.2018 and 3.4.2018
Appendix III	Recommended advisory clauses
Drawings A-1 to A-15	Floor plans, diagrammatic section and photomontages as submitted by the applicant
Plans A-1 and A-2	Location Plans on OZP and ODP
Plan A-3	Site Plan
Plan A-4	Building height restrictions for Kwun Tong Business Area
Plans A-5 to A-6	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**