

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

**APPLICATION NO. A/K18/335**

- Applicant** : Smart Elect Enterprises Limited represented by Kenchikka Limited
- Site** : 14 Kent Road, Kowloon Tong, Kowloon
- Site Area** : About 998.8m<sup>2</sup>
- Lease** (a) New Kowloon Inland Lot (NKIL) No. 883 with a lease up to 30.6.2047
- (b) Subject to the following main restrictions:
- (i) a message or dwelling house; and
  - (ii) front and range clause.
- Plan** : Approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/21
- Zoning** : “Residential (Group C)1” (“R(C)1”)
- (a) maximum plot ratio (PR) of 0.6 and maximum building height (BH) of 3 storeys, or the PR and height of the existing building, whichever is the greater; and
- (b) provision for application for minor relaxation of the BH restriction to allow for one storey of basement for use as car park and/or ancillary plant room.
- Application** : Proposed Minor Relaxation of BH Restriction to Allow for One Storey of Basement for Permitted House Use

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed minor relaxation of BH restriction for developing a 4-storey house (including one storey of basement for car parking and ancillary plant room use) at the application site (the Site) (**Plan A-1**). The Site is zoned “R(C)1” on the approved Kowloon Tong OZP No. S/K18/21. According to the Notes of the OZP, ‘House’ use is always permitted within the “R(C)1” zone; and minor relaxation of BH restriction to allow for 1 storey of basement for use as car park and/or ancillary plant room may be permitted on application to the Town Planning Board (the Board).

1.2 The main entrance and vehicular access will be at Kent Road. A 6m setback along Kent Road is provided in accordance with the non-building area (NBA) designated on the draft Kowloon Tong Outline Development Plan (ODP) No. D/K18/1A (**Plan A-2** and **Drawing A-1**).

1.3 The major development parameters of the proposed development are as follows:

<b>Development Parameters</b>	<b>Proposed Scheme</b>
Site Area	998.8m <sup>2</sup>
Gross Floor Area (GFA)*	About 598.6m <sup>2</sup> (excluding GFA concession of 620.3m <sup>2</sup> , or 104% of total domestic GFA, for car parking spaces and ancillary plant rooms on B/F)
PR	0.6
Site Coverage	About 44.8%
No. of Storeys	4 (3 domestic storeys over 1 basement for car park and ancillary plant rooms)
BH (at roof level) (in m and mPD)	12.603m and 41.975mPD
Greenery Coverage	10% (101m <sup>2</sup> )
No. of Car Parking Spaces	3 for private cars
No. of Loading/Unloading (L/UL) Bay	1 for light goods vehicle (LGV)

\*The GFA calculation and GFA concessions are subject to Building Authority (BA)'s agreement at general building plan (GBP) stage.

1.4 According to the Tree Survey and Master Landscape Plan submitted by the applicant (**Appendix Ic**), there are currently seven existing trees along the north-western boundary, two of them (i.e. T1 and T2) will be retained in-situ whereas five of them will be transplanted at the north-eastern corner. One existing tree at the southern boundary of the Site (T8) is proposed to be felled to make way for the proposed driveway leading to the basement level, the tree will be compensated by three new trees at the north-eastern corner of the Site (**Drawings A-4** and **5**). The landscape area with new tree planting will maximise the green coverage of the proposed development (**Drawing A-5**). On the Master Landscape Plan, a soil depth of 1.2m is proposed for the planting area (above the basement) (**Appendix Ic and Annex I**).

1.5 Plans including floor layout plans and section drawings submitted by the applicant are shown in **Drawings A-1** to **A-3**.

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

- (a) Application form received on 25.2.2020 **(Appendix I)**
- (b) Clarification letter received on 2.3.2020 **(Appendix Ia)**

- (c) Further Information (FI) received on 20.4.2020 (1<sup>st</sup> FI) **(Appendix Ib)**
- (d) FI received on 23.6.2020 (2<sup>nd</sup> FI) **(Appendix Ic)**  
*[Not exempted from publication and recounting requirements.]*
- (e) FI received on 12.8.2020 (3<sup>rd</sup> FI) **(Appendix Id)**

1.7 On 24.4.2020, the Metro Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant in order to allow time for preparation of FI to address the comments from government departments. Upon submission of the FI on 23.6.2020, the application is scheduled for consideration by the Committee at this meeting.

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

The justifications put forth by the applicant in support of the application are provided in the application form and FIs at **Appendices I, Ia to Id**. They are summarized as follows:

### In Line with Planning Intention

- (a) the proposed house redevelopment is in line with the planning intention of the “R(C)1” zone, in which house use is always permitted.

### GBP Previously Approved at the Site

- (b) a set of GBP for a proposed 3-storey detached house<sup>1</sup> at the Site has been approved by the Building Authority in August 2018;

### Provision for application for Minor Relaxation of BH Restriction

- (c) the Notes of the OZP stated that minor relaxation of BH restriction to include one storey of basement for car parking and/or ancillary plant room at “R(C)1” zone may be permitted on application to the Board; and

### Landscape Aspect

- (d) landscape area with new tree planting has been proposed to maximise the green coverage of the proposed development.

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

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

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<sup>1</sup> The GBP approved in August 2018 is for a proposed development involving a 3-storey house (including one storey of basement for car park, water tank and plant room, and two storeys above-ground) with similar PR, maximum S.C. and size of the basement.

4. **Previous Application**

The Site is not subject to any previous application.

5. **Similar Applications**

There are 19 similar applications (involving 14 sites) for minor relaxation of BH restriction for residential developments to include one storey of basement for car parking and/or ancillary plant room use within the “R(C)1” zone on the Kowloon Tong OZP (**Plan A-1**). 14 applications (involving 13 sites) considered between 2006 to 2019<sup>2</sup> were approved with conditions, mainly for reasons that the proposals would allow more tree planting opportunities and enhance the local amenity and would not result in significant impacts on the environment, drainage, traffic, visual and infrastructural aspects. Four applications (involving 1 site) considered between 2002 to 2005 were rejected on grounds of excessive basement size, insufficient information to demonstrate there were planning or design merits, and setting of undesirable precedent. Another application considered in 2019 proposed both relaxation of BH and PR and was rejected mainly due to excessive relaxation of PR, which is not applicable to the subject application. Details of the similar applications are summarized at **Appendix II**.

6. **The Site and Its Surrounding Areas (Plans A-1 and A-2 and site photos on Plan A-3)**

6.1 The Site:

- (a) is currently vacant, there are seven existing trees along the north-western boundary and one existing tree at the south-eastern boundary of the Site (**Drawing A-4** and **Plan A-3**);
- (b) is located on Kent Road, within the section bounded by Cornwall Street to the north and Somerset Road to the south; and
- (c) a NBA of 6m-wide abutting both sides of Kent Road is designated on the draft Kowloon Tong ODP No. D/K18/1A, which is intended for building setback to enhance the streetscape of the area (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) the Site is located within the KTGE which is a low-rise, low-density residential area. Existing developments are generally 1 to 3 storeys in height; and
- (b) some non-residential uses including schools, religious institutions, hotel and wedding venues are located in the vicinity.

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<sup>2</sup> Among these applications, No. A/K18/326 was for minor relaxation of BH restriction from 3 to 4 storeys and minor relaxation of PR restriction from 0.6 to 0.6862 to accommodate the GFA accountable from the resumed land for street widening. The application was approved with conditions by the Committee for reasons similar to other similar applications as listed under **Appendix II**.

## **7. Planning Intention**

- 7.1 The planning intention of the “R(C)1” zone is for low to medium-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. The site is subject to a maximum PR of 0.6 and a maximum BH of three storeys, or the PR and height of the existing building, whichever is the greater.
- 7.2 According to the Explanatory Statement (ES) of the OZP, for consideration of application to provide additional basement storey in “R(C)1” zone, the construction of the basement should not cause any adverse impacts on the existing trees or deteriorate the distinctiveness of the area as a garden estate.
- 7.3 The ES of the OZP also stated that minor relaxation of BH restriction will be considered by the Board taking into account 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 PR granted under the Buildings Ordinance (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 and visual permeability;
  - (e) accommodating building design to address specific site constraints in achieving the permissible PR under the OZP; 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 and would not cause adverse landscape and visual impacts.

## **8. Comments from Relevant Government Departments**

- 8.1 The following Government departments have been consulted and their views on the application and on the public comments are summarized as follows:

### **Land Administration**

- 8.1.1 Comments of the District Lands Officer/Kowloon East, Lands Department (DLO/KE, LandsD):

- (a) the site under application is located at N.K.I.L. No. 883 (the Lot) which is subject to a lease term having been extended up to 30 June 2047. Pursuant to the lease governing the Lot, the Lessee shall during the whole of the lease term keep and maintain on the Lot a messuage and dwelling house which is subject to Front and Range Clause and other conditions as contained in the lease. It is further specified in the lease that the Lessee shall not erect any other messuage or dwelling house on the Lot without the prior consent of the Director; and
- (b) the current application would propose a redevelopment comprising 1 block of 3-storey residential building above a 1-storey basement (i.e. 4 storeys in total) with a total building height of 41.975mPD. If the planning application is approved by the Town Planning Board, the lot owner has to apply to LandsD for a consent for implementation of the proposed redevelopment. However, there is no guarantee that the consent will be given. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such consent is given, it would be subject to such terms and conditions including, among others, the payment of premium and administrative fee as may be imposed by LandsD.

### **Building Matters**

#### 8.1.2 Comments of the Chief Building Surveyor/Kowloon, Buildings Department (CBS/K, BD):

- (a) no in-principle objection to the proposal under Buildings Ordinance (BO) subject to submission of building plans to demonstrate compliance of BO and Building Regulations;
- (b) in assessing whether the underground car park (i.e. basement) is reasonable and is not excessive for disregarding its area from GFA calculation under B(P)R 23(3)(b), the Building Authority will make reference to the Hong Kong Planning Standard and Guidelines (HKPSG) and the advice of Commissioner for Transport (C for T). Any excessive car parking spaces and associated spaces (i.e. ramp, driveway, etc.) should be included in GFA calculation; and
- (c) detailed comments will be given at building plan submission stage.

### **Environment**

#### 8.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application and adverse environmental impact associated with the proposed

development is not anticipated, taken into account the following:

#### Air Quality

- (b) based on the plans provided by the applicant (**Drawing A-5**), it is noted that sufficient buffer distance for vehicular emission (i.e. 10m from Kent Road which is classified as district distributor as advised by Transport Department (TD)) will be provided by the proposed development; and

#### Noise

- (c) the applicant has confirmed that the planning and design of the development will follow the relevant noise planning requirements under the HKPSG to avoid causing any noise problems.

### **Traffic**

#### 8.1.4 Comments of the C for T:

- (a) he has no object to the application;
- (b) the applicant should provide (1) a revised parking space layout plan showing the parking provision of 2 parking spaces for private cars, 1 visitor parking spaces for private cars and 1 L/UL bay for goods vehicles (7m (length) x 3.5m (width) x 3.6m (headroom)) and adequate spaces for manoeuvring; (2) a plan showing the location and width of vehicular access (not exceeding 5.5m) within the specified X-Y-Z points according to the land lease; and (3) clarification of the proposed two-way vehicular ramps will have a minimum clear width of 5.5m; and
- (c) to address the above, should the application be approved, the following approval condition is suggested:

the design and provision of vehicular access, car parking spaces and L/UL facilities to satisfaction of the C for T or of the Board.

### **Visual and Landscape Aspects**

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

#### Urban Design

- (a) since the proposed minor relaxation of building height restriction (BHR) only involves an additional basement floor, it will unlikely cause any change to the perceivable massing/bulk of the proposed development above ground. Whilst he has no strong view on the proposed minor relaxation of BHR from

visual impact perspective, there are no apparent planning and design merits in the submission to support the proposed minor relaxation of BHR; and

#### Landscape

(b) in view that the proposed application is not incompatible to the landscape character of the surrounding environment and significant adverse landscape impact caused by the proposed development is not anticipated, he has no objection to the application from landscape planning perspective. His other technical comments are summarised in suggested advisory clauses at **Appendix IV**.

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

the proposed 3-storey house over one storey of basement carpark may not be incompatible with the adjacent residential developments which are generally with BHs of 3 storeys above ground.

#### District Officer's Comments

8.1.7 Comments of the District Officer (Kowloon City), Home Affairs Department (DO(KC), HAD):

DO(KC), HAD has no comment on the planning application and notes that PlanD has notified the Owners Committee/Mutual Aid Committees/management committees/residents of buildings near the Site on the planning application. The Board should take into account all the comments gathered in the decision making process. Should the application be approved, the applicant should take appropriate measures to address the residents' concerns.

8.2 The following Government departments have no objection to or no comment on the application:

- (a) Chief Engineer/Mainland South, Drainage Services Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highway Engineer/Kowloon, Highways Department;
- (d) Commissioner of Police;
- (e) Director of Electrical and Mechanical Services;
- (f) Director of Fire Services; and
- (g) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

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

The application and the subsequent FI were published for public inspection on 3.3.2019 and 3.7.2020. A total of five public comments from residents of the nearby



lots were received, including two objecting comments from the same person and three (two from the same company) providing views on the application (**Appendices III-a and III-b**). The objecting comments were made mainly on grounds that the proposed basement size is excessive and would set an undesirable precedent for similar applications in the area which would subsequently aggravate the traffic condition in the locality (**Appendix III-a**). Regarding the comments providing views, one of them indicated that there would be no objection to the application subject to no adverse effect to the surrounding area. The remaining two comments were from the same company mainly providing views that the proposed development should comply with the relevant environmental regulations; the excavation works should not interfere or affect the stability of building structures in the adjacent lots; the building design should be compatible with the surroundings; the resultant BH above ground should not exceed the BH restriction as stipulated under the OZP; and the landscape plan is considered not satisfactory (**Appendix III-b**).

## **10. Planning Considerations and Assessments**

- 10.1 The application is for a permitted house development with minor relaxation of BH restriction from 3 storeys to 4 storeys for one basement floor to accommodate three car parking spaces, one L/UL bay and some ancillary plant rooms.
- 10.2 According to the Notes of the OZP, on land designated “R(C)1”, based on individual merits of a development or redevelopment proposal, minor relaxation of the BH restriction to allow for one storey of basement which is constructed or intended for use as car park and/or ancillary plant room, may be considered by the Board on application. Such provision is to allow design flexibility for development with planning and design merits. Moreover, the construction of the basement should not cause any adverse impacts to the existing trees or deteriorate the distinctiveness of the area as a garden estate.
- 10.3 The applicant proposes to set back the house from Kent Road by 6m to comply with the NBA requirement under the ODP, other than that, the applicant has not put forth any other planning and design merits in the proposal. Under the landscape proposal, of the eight existing trees within the Site, two will be retained in-situ, five will be transplanted, and one will be felled and compensated with three new trees. Despite there may be room to improve the basement design to reduce impact on the existing trees, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective having considered the tree survey and Master Landscape Plan submitted by the applicant. As such, the application is considered to generally meet the criteria for minor relaxation of BHR for an additional basement level as highlighted in paragraph 7.2 above. To address C for T’s comments on the vehicular access and parking arrangement, an approval condition is recommended in paragraph 11.2 below. Other government departments have no adverse comments on the application.
- 10.4 19 similar applications at 14 sites involving minor relaxation of BH for additional basement floor were considered by the Committee/Board between 2002 to 2019. For the 14 approved applications (involving 13 sites), their

basement area to total GFA ratios ranged from 25% to 104%, and were supported by planning and design merits including, providing better streetscape such as provision of greenery/landscaping area mainly along the street frontages of the respective sites, and more at-grade greening, more innovative building design including special façade design and treatment such as stepped terraces as well as proposing no roof-top structures. As for the four rejected applications (involving the same site at Devon Road), their basement area to total GFA ratios ranged from 112% to 141%. As compared to the approved similar applications, the proposed basement size (basement area to total GFA ratio of about 104%) is at the top end of that previously approved.

- 10.5 Regarding the public comment in relation to the excessive basement size and undesirable precedent, the assessment in the above paragraphs are relevant. Concerns regarding impacts during construction stage will be monitored under the environmental protection and building regimes.

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

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.8.2024, 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 conditions and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the design and provision of vehicular access, car parking spaces and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (b) the provision of a minimum greening ratio of 10%, as proposed by the applicant to the Director of Planning or of the Town Planning Board.

### Advisory Clauses

The suggested advisory clauses are at **Appendix IV**.

- 11.3 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 the proposed development would not have adverse impacts on existing trees and that there are planning and design merits to support the application.

## **12. Decision Sought**

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 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.

## **13. Attachments**

<b>Appendix I</b>	Application Form received on 25.2.2020
<b>Appendix Ia</b>	Clarification letter received on 2.3.2020
<b>Appendix Ib</b>	1 <sup>st</sup> FI received on 20.4.2020
<b>Appendix Ic</b>	2 <sup>nd</sup> FI received on 23.6.2020
<b>Appendix Id</b>	3 <sup>rd</sup> FI received on 12.8.2020
<b>Appendix II</b>	Similar s.16 applications within “R(C)1” Zone on the Kowloon Tong OZP
<b>Appendices III-a and III-b</b>	Public comments received
<b>Appendix IV</b>	Suggested Advisory Clauses
<b>Annex I</b>	Proposed Soil Depth Provisions for Planting
<b>Drawings A-1 to A-5</b>	Plans submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Site Photos

**PLANNING DEPARTMENT  
AUGUST 2020**