

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

**APPLICATION NO. A/I-LI/30**

- Applicant** : Mr. TSANG Hing Hong represented by Kenneth To & Associates Limited
- Site** : Lots No. 5 and 23 in D.D. 7, Lamma Island
- Site Area** : About 524.7m<sup>2</sup>  
- Lot No. 23 : 433.6m<sup>2</sup> (Site A)  
- Lot No. 5 : 91.1m<sup>2</sup> (Site B)
- Lease** : Old Schedule Lots  
- Lot No. 23 : for 'House and Waste' use (Site A)  
- Lot No. 5 : for 'House and Dry Cultivation' use (Site B)
- Plan** : Approved Lamma Island Outline Zoning Plan (OZP) No. S/I-LI/11
- Zoning** : "Conservation Area" ("CA")  
[redevelopment is subject to maximum plot ratio (PR) of 0.4, maximum site coverage (SC) of 20%, and maximum building height (BH) of 2 storeys (7.6m), or the PR, SC and height of the existing building, whichever is the greater]
- Application** : Proposed House (Redevelopment), Filling of Land/Excavation of Land and Amenity Planting

**1. The Proposal**

- 1.1 The applicant seeks planning permission for redevelopment of two houses (on two separate Lots) into two detached houses on one of the Lots, and to carry out filling of land/excavation of land and amenity planting at the application sites (the Sites). According to the application, the Sites comprise two private lots, including Lot No. 23 (i.e. Site A) and Lot No. 5 (i.e. Site B), which fall within an area zoned "CA" on the approved Lamma Island Outline Zoning Plan (OZP) No. S/I-LI/11 (**Plans A-1 and A-2**). According to the Notes of the OZP, 'House (Redevelopment only)' is a Column 2 use under "CA" zone, which may be permitted with or without conditions on application to the Town Planning Board (the Board), and any filling of land and excavation of land within "CA" zone requires planning permission from the Board. It is also stated in the Remarks of the Notes that 'no redevelopment, including alteration and/or modification, of an existing house shall result in a total redevelopment in excess of a maximum PR of

0.4, a maximum SC of 20%, and a maximum BH of 2 storeys (7.6m) or the PR, SC and height of the existing house, whichever is the greater'. According to the covering Notes of the OZP, provision of amenity planting within "CA" zone requires planning permission from the Board.

- 1.2 According to the application, two detached New Territories Exempted Houses (NTEHs) will be erected at Site A, while Site B is designated as an amenity planting area with new trees and woodland shrubs. The two NTEHs at Site A will be built on two different platforms at 7mPD and 8mPD while the existing site level is ranging from about 5.1mPD to 6.4mPD. There will be filling of land for the new platforms, excavation of land for proposed septic tank and filling/excavation of land for the proposed landscaping area in Site A. There will be no change to existing site level at Site B (**Appendix I** and **Drawings A-1 to A-8**). The applicant indicates that no formation of temporary access would be required during construction. As regards the provision of permanent access to Site A, the applicant considers that improvement of footpath linking Site B and Site A within "CA" zone (orange section in **Plan A-2** refers) will require planning permission from the Board and such proposal will be submitted under a separate planning application (**Appendices Ib** and **Id**).

Major development parameters of the proposed development are summarized as follows:

Table 1

Site Area (Total)	524.7m <sup>2</sup> (about)
Site A	433.6m <sup>2</sup> (about)
Site B	91.1m <sup>2</sup> (about)
PR	Not more than 0.31 *
Site A	0.374
Site B	-
GFA	Not more than 162m <sup>2</sup>
Site A	162m <sup>2</sup>
Site B	-
SC	Not more than 16% *
Site A	18.6% (about)
Site B	-
BH	Not more than 7.6m
No. of houses	2
No. of storeys	2
Average unit size	81m <sup>2</sup> (about)

(\* Calculated on total site area )

- 1.3 According to the applicant, 24 trees falling outside and 2 trees falling within Site A are proposed to be retained, and 9 trees falling within Site A are proposed to be felled. 7 trees falling outside and 11 trees falling within Site B are proposed to be retained, and no tree is proposed to be felled ('Summary of Proposed Treatment for Existing Trees' in **Appendix Id** refers). The existing/ proposed retained trees near the Site will be properly maintained during the construction stage (**Appendix Ib**). According to the landscape proposal, for Site A, ornamental tree and shrub planting are proposed along the periphery planting strips while edge planting will also be provided in the proposed development. For Site B, additional heavy standard trees and woodland shrub mix are proposed. Besides, the applicant will

provide septic tank for treatment and disposal of sewage; stormwater drainage facilities to deal with surface runoff of the Sites; and extend connection to the nearest suitable government water mains. Schematic drawing and landscape master plans, tree survey plans and planting plans submitted by the applicant are at **Drawings A-1 to A-8**.

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

- (a) Application form (Appendix I)
- (b) Supporting Planning Statement received on 4.3.2019 (Appendix Ia)
- (c) Further information (FI) received on 3.7.2019 (Appendix Ib)  
*(accepted but not exempted from publication and recounting)*
- (d) FI received on 8.7.2019 (Appendix Ic)  
*(accepted and exempted from publication and recounting)*
- (e) FI received on 16.10.2019 (Appendix Id)  
*(accepted but not exempted from publication and recounting)*
- (f) FI received on 24.10.2019 (Appendix Ie)  
*(accepted and exempted from publication and recounting)*

1.5 The application was originally scheduled for consideration by the Rural and New Town Planning Committee (the Committee) on 3.5.2019. At the request of the applicant, the Committee at its meeting on 3.5.2019 and 16.8.2019 decided to defer a decision on the application for a period of two months each so as to allow the applicant to have more time to prepare FI to address comments from government departments. On 3.7.2019, 8.7.2019, 16.10.2019 and 23.10.2019, the applicant submitted FIs as indicated in paragraph 1.4 above. The application is scheduled to be considered at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia, Ib and Id** and summarised as follows:

- (a) the proposed redevelopment of the two houses, filling of land/excavation of land, and provision of amenity planting would not jeopardize the planning intention of the “CA” zone;
- (b) the rights for house redevelopment of old schedule lots held under the Block Government Lease demised for house use should be respected. No excessive development footprint is proposed. Re-building of two houses at Site A is the most optimal arrangement. As Site A is comparatively less vegetated, within which the trees are poorly maintained, proposed relocation of the house from Site B to Site A will not bring significant adverse impacts to Site A. The relocation of the redeveloped house at Site B will also eliminate the potential visual impact of a new structure on top of the sensitive headland;

- (c) with an aim to address concern about the required slope stability and earth works and to avoid disturbance to the existing footpath at Site B, it is proposed to relocate the redeveloped house from Site B to Site A with a larger site area and a more gentle topography. The construction is small in scale. The redevelopment proposal is considered geotechnically feasible. No major geotechnical problem is envisaged;
- (d) the landscape quality of Site B would be enhanced. For further improvement on accessibility to the Sites, the conditions of the footpaths/trails would be improved at the cost of the applicant. The landscape impact associated with the footpath improvement works will be minimized as far as practicable;
- (e) there will be no adverse drainage and sewerage impacts on the surrounding areas or adverse landscape impact. Planting of heavy standard trees are proposed;
- (f) no formation of temporary access will be required. During the construction stage, the construction materials will be transported using village vehicles along the existing footpath and then carried by the workers to Site A without affecting the ecology and existing trees; and
- (g) the Board had previously approved a planning application No. A/ST-KYS/9 in September 2014 for house redevelopment within the “CA” zone in Kwun Yam Village, Sha Tin, which is similar to the present application.

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

The applicant is not a ‘current land owner’ but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the ‘Owner’s Consent/Notification’ Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No.31) by notifying the current land owner about this planning application. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Previous Application**

The Sites are not the subject of any previous application.

### **5. Similar Application**

There is no similar application within the subject “CA” zone on the OZP.

### **6. The Sites and Its Surrounding Areas (Plans A-1 to A-3 and photos on Plans A-4 to A-6)**

6.1 The Sites:

- (a) are located along the coast in the south-eastern part of Lamma Island (**Plan A-1**);

- (b) comprise two private lots, including Lot No. 23 (Site A) and Lot No.5 (Site B), which are about 30m apart (**Plan A-2**). Ruins are observed in Site B (**Plan A-6**). Some ruins are also found at the beach/sandy shore, which are outside the boundary of Site A (**Plan A-5**);
- (c) Site A is relatively flat with trees and vegetation and is fronting a beach (**Plans A-3 and A-5**), while Site B is sitting on top of a headland overlooking the edge of a steep slope above the sea (**Plans A-2 and A-3**), partly covered by vegetation and is bisected by an existing footpath (**Plans A-2 and A-6**); and
- (d) are accessible via an existing footpath from Mo Tat Wan (North) Pier (**Plan A-2**) to Site B and to Site A via an informal trail. It is noted that there is a trail connecting to Site A from the existing footpath, which is barely accessible (green section in **Plan A-2** refers). According to the applicant, the footpath linking Site B and Site A may be improved (i.e. orange section in **Plan A-2** refers) but there is no detailed proposal about the proposed improvement works in the current submission.

6.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with natural vegetation, including trees, shrubs and weeds (**Plans A-5 and A-6**);
- (b) to the southwest about 160m from Site A is an existing recognized village namely Mo Tat Wan (zoned “Village Type Development” (“V”) (**Plan A-1**); and
- (c) to the further northeast of Site B is an existing residential development at Lot No. 524 in D.D. 7 Lamma Island (zoned “Residential (Group C)” (“R(C)”) (**Plans A-2 and A-3**). General building plan for redevelopment of a 2-storey single family house at the subject lot was approved by the Building Authority on 15.10.2019.

## 7. **Planning Intention**

The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

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

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

## Land Administration

### 8.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):

#### Land Status

- (a) the Sites comprise two private lots known as Lot No. 23 and Lot No. 5 in D.D.7, Lamma Island ('the Lots'). The Lots are old schedule lots held under the Block Government Lease and are demised for 'House and Waste' use (Lot No. 23 in D.D.7 Lamma Island, i.e. 'Site A') and 'House and Dry Cultivation' use (Lot No. 5 in D.D.7 Lamma Island, i.e. 'Site B') respectively. Based on the Field Area Statement, Site A has an area of 0.01 acre (about 40.5m<sup>2</sup>) as 'House' and 0.10 acre as 'Waste' whereas Site B has an area of 0.01 acre (about 40.5m<sup>2</sup>) as 'House' and 0.02 acre (about 81m<sup>2</sup>) as 'Dry Cultivation';
- (b) for the land status of the 'trails' and 'public footpaths' as shown in Figure 2.5 of the supporting planning statement, the 'trails' fall on government land (GL) whereas the 'public footpaths' fall on both private lots (i.e. Lots No. 6, 7, 8 and 11 in D.D. 7 Lamma Island) and GL (**Plan A-2**);
- (c) the Lots fall outside 'village environs' ('VE') boundary of any recognized villages under the New Territories Small House Policy. The Lots are not currently under any application for Small House. At the present stage, the registered owner of the Lots cannot be verified as an indigenous villager or not. Further, any proposed NTEH redevelopment should be on the building portion of the two original lots only;
- (d) as regards whether the two proposed houses are NTEHs, since only schematic drawings are provided in the supporting planning statement, it is premature for DLO/Is, LandsD to advise whether the proposed houses can be regarded as NTEHs and it shall be the owner of the Lots to prove the two proposed houses are NTEHs in all respects in compliance with the provisions under the Buildings Ordinance (Application to the New Territories) Ordinance (BO(ATNT)O) (Cap. 121);

#### Development Parameters

- (e) despite the proposed PR does not exceed 0.4 as permitted under the OZP, the applicant proposes to transfer the redevelopment rights of one house from Site B to Site A and keep Site B for amenity planting use. There is no justification in the application to demonstrate why the Lots cannot be individually redeveloped to erect a house on each lot;
- (f) Site B has an area of 0.01 acre as 'House' and 0.02 acre as 'Dry Cultivation', and any proposed NTEH redevelopment should be on the building portion of the original lot only. It is noted that

the applicant attempted to demonstrate the house redevelopment at Site B will affect the existing footpath inevitably. However, it appears that the size of the proposed house redevelopment at Site B will exceed the building entitlements of Site B i.e. 0.01 acre demised for 'House' (**Annex A** of **Appendix Id** refers). The applicant should review his proposed house redevelopment based on the building entitlements and to demonstrate why the existing footpath will still be affected;

- (g) it is silent in the applicant's response as to how the proposed relocation of the house from Site B to Site A 'with a larger site area and a more gently topography' could/ would address the concern about the slope stability and earth work. The applicant should provide substantiation to justify why it is technically not feasible to redevelop a house on Site B;

#### Access Arrangement

- (h) the footpath near Site B falls partly on private lots and partly on GL. The applicant's justification will no longer be sound if the owner(s) of the adjoining Lots No. 6, 7, 8 and 11 in D.D.7 Lamma Island stop allowing the public to pass through the footpath falling within these private lots (**Plan A-2**);
- (i) as regards Annex D in FI (**Appendix Ib**), the applicant may need to justify to the Board's satisfaction that the configuration of the proposed house cannot be adjusted and as a result the existing footpath would definitely be affected. Alternatively, the applicant may need to justify to the Board's satisfaction that the footpath within Site B cannot be re-aligned such that no house could be built on Site B;

#### Tree Preservation Proposal

- (j) the applicant proposes that all of the trees within Site B could remain intact and claims that relocation of the house from Site B to Site A would not bring significant adverse impacts to Site A as it is comparatively less vegetated and the trees within Site A are poorly maintained. It is noted from the Tree Survey Report and Landscape proposal at Appendix 4 of the applicant's supporting planning statement (January 2019) (**Appendix Ia**) that there are 11 trees within Site B and the health condition of these trees is generally in fair or poor condition. As such, the applicant's retention of all the trees in Site B is hardly a justifiable reason to substantiate the proposed relocation of house from Site B to Site A. Further, with reference to the building footprint of the proposed house as shown in Annex D in FI (**Appendix Ib**), it seems not impossible to transplant the existing trees to or plant any compensatory trees in the non-building portion within Site B. The applicant should review and provide justification to the Board's satisfaction;

Shatin Case quoted by the Applicant

- (k) the case in Shatin (A/ST-KYS/9) involves the redevelopment of one site comprising 4 contiguous sections, namely Lots No. 415s.A, 415s.B ss.1, 415s.B RP and 415RP in D.D.192, into 2 Small Houses within 'VE' of Kong Pui Tsuen and Kwun Yam Shan. The in-situ redevelopment of the Shatin case is not the same as the subject application which involves transfer of development rights between two separate site for NTEH development outside 'VE' of any recognized villagers; and
- (l) should the planning application be approved by the Board, the owner of the Lots should submit a land exchange application to DLO/Is, LandsD prior to the commencement of the proposed development. However, there is no guarantee that the Government will process the land exchange application and the Government may reject the application as it sees fit. The application, if approved by LandsD acting in the capacity as the landlord at its discretion, will be subject to such terms and conditions as shall be considered appropriate by LandsD including, inter alia, payment of premium and administrative fee or such other fees as the Government sees fit.

**Traffic**

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

since there is no direct vehicular access to the Sites and the applicant only seeks planning permission for proposed redevelopment of two houses, amenity planting, and filling of land/excavation of land at the Sites, C for T considers that the application can be tolerated from traffic engineering point of view. The access roads in the vicinity of the Sites are not managed by the Transport Department.

**Environment**

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

- (a) the subject sites fall within an area zoned "Conservation Area" ("CA") on the approved Lamma Island OZP No. S/I-LI/11. The proposed redevelopment will likely constitute a designated project under Item Q.1 of Part 1 of Schedule 2 of the EIAO, which stipulates that all projects including new access roads, railways, sewers, sewage treatment facilities, earthworks, dredging works and other building works partly or wholly in a conservation area, will require an environmental permit for their construction and operation unless it is a NTEH development;
- (b) as the applicant has not demonstrated the environmental acceptability of the proposed redevelopment, DEP does not support the application from the environmental protection perspective; and



- (c) sewerage impact assessment is not required for the subject sites. As there is currently no existing public sewer for the subject sites, the applicant should be advised of the following:

septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirement of the Practice Note for Professional Person (ProPECC) 5/93 and are duly certified by an Authorized Person.

### **Urban Design**

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

- (a) the Sites are situated at the waterfront of Mo Tat Wan, southern Lamma Island, which is surrounded by mature woodlands and has rich rural and natural characters. It is noted that the Sites are covered with vegetation integrated with the surrounding natural woodland zoned “CA”. Several low-rise residential and village type developments are found to the north and south of the Sites; and
- (b) the application involves redevelopment of two houses, that the applicant claims to exist on Site A and Site B respectively, at Site A, and associated amenity planting works at Site B and filling/ excavation of land at Site A falling within the “CA” zone. The proposed redevelopment may not be incompatible with the rural and natural characters of the surroundings provided that appropriate design measures are adopted. In this regard, it is noted that there is no screen/buffer planting provided along the western boundary of Site A facing the beach at Mo Tat Wan. Should the application be approved, the applicant is advised to explore further measures to screen off the proposed redevelopment when viewed from the beach to further enhance its compatibility.

### **Landscape**

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

- (a) the Sites (A & B) are located next to the seafront adjacent to Mo Ta Wan at east of Lamma Island. At the back and to the west of the Sites is the hill of Ling Kok Shan. The existing landscape character of the Sites and its surrounding are rural in character with many trees and vegetation facing the seafront. Within the Sites, some existing trees are found according to the tree survey report in the supporting planning statement. Some developments such as low rise houses are found to the east and southwest (along Lamma Family Walk) of the Sites in the “R(C)” zone and “V” zone respectively. However, there is no noticeable development found within the “CA” zone in the adjacent area of the Sites. In this regard, the proposed

redevelopment is not in line with the planning intention of the subject “CA” zone that ‘only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted’;

- (b) with reference to the aerial photos dated 17.1.2015, 30.4.2017 (**Plan A-7**) and 24.5.2018 (**Plan A-3**), both Sites A and B were fully vegetated in Year 2015 and 2017. However, there was almost blanket removal of all existing trees, including the understory shrubs/vegetation within Site A on GL in close vicinity of Site A as shown in aerial photo taken on 24.5.2018 (**Plan A-3**). This shows that vegetation removal has been taken place without any planning permission;
- (c) site visit reveals that only some trees and vegetation are found within and in vicinity of Site A but the surrounding area is fully vegetated with many existing trees/vegetation. However, it is observed that there is neither direct access leading to Site A from the pier (pier next to Mo Tat Wan Pier) nor access connecting the existing footpath to Site A. On the other hand, it is noted that an informal trail was formed at southeast of Site A connecting to the footpath;
- (d) it is considered that adverse landscape impacts within this sensitive area of “CA” zone in Site A after the blanket removal of vegetation in 2017 have already taken effect prior to the grant of planning permission. Approval of this application would set an undesirable precedent to encourage similar removal of valuable natural landscape resources in the “CA” zone prior to obtaining planning permission. The cumulative effect will result in the gradual degradation of the natural landscape environment in “CA” zone;
- (e) the substantial filling of land (approximate 1.83m to 2.23m) within Site A is noted. This will lead to the permanent and irreversible change of the existing landform, resulting in the irreversible change in the landscape character of the Sites;
- (f) the proposed new tree plantings for Sites A and B are exotic tree species such as *Bauhinia purpurea* and *Hibicus tiliaceus*. The applicant should be reminded to consider native tree species to enhance the ecological value of the Sites, which fall within the “CA” zone;
- (g) it is noted that the construction of a footpath on GL between Site A and Site B is proposed. The applicant also claims that the proposal would be submitted to the Board for approval under separate application. It is considered that the construction of footpath will cause further adverse landscape impacts on the existing trees and landform on the GL and the surrounding area. The adverse landscape impacts cannot be reasonably ascertained without any information provided by the applicant; and

- (h) based on the above, CTP/UD&L objects to the application from landscape planning perspective. Since the Site falls within the sensitive zoning of “CA”, should the Board approve the subject application, the following approval condition and advisory comment to applicant are suggested:

Approval condition

Submission and implementation of a landscape proposal to the satisfaction of the Director of Planning or of the Board.

Advisory comments

The applicant should be reminded that any consent/approval of tree works proposal (such as felling, transplanting or pruning) should be obtained direct from LandsD.

**Building Matters**

8.1.6 Comments of the Chief Building Surveyor/New Territories East 1 & Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) based on the information available, the proposed houses at Site A are regarded as NTEH under the BO(ATNT)O, BD is not in the position to offer any comment;
- (b) site formation works and drainage works for NTEH are building works under the Buildings Ordinance (BO). Unless the necessary certificate of exemption is issued by the LandsD before any new site formation and/ or drainage works for NTEH are to be carried out, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works; and
- (c) in case the proposed houses at Site A are not regarded as NTEH under BO(ATNT)O, CBS/NTE1&L, BD has the following comments under the Buildings Ordinance (BO):
- (i) Site A and Site B should be regarded as 2 separate sites for the purpose of compliance with the BO. The proposed PR and SC of Site A will be 0.374 and 18.68% respectively. In case the site does not abut on a specified street of width not less than 4.5m, the development intensities and building height shall be determined by the BA under Building (Planning) Regulation (B(P)R)19(3) upon formal submission of building plans to the BD;
- (ii) the site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)R5 and 41D respectively;
- (iii) detailed comments under the BO on the private development(s)/ building(s) such as permissible PR, SC, emergency vehicular access, provision of means of

escape, fire resisting construction, barrier free access and facilities, compliance with the sustainable building design guidelines, etc. will be formulated at the formal building plan submission stage; and

- (iv) before any new building works (including site formation works) are to be carried out on the application sites, prior approval and consent from the BA should be obtained, otherwise they are unauthorized building works.

### **Nature Conservation**

#### 8.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) DAFC does not support the application from the nature conservation perspective;
- (b) the Sites are well-vegetated. In particular, Site A which is the proposed site for two houses is covered with some trees and shrubs. Other than a narrow mud track (i.e. trail) connecting Site A and a footpath connecting Site B, both Sites are not served by any vehicular access. Besides, the proposed development covers an area much larger than that required by the footprint of the proposed new houses. The site inspection also reveals that the total number of trees within Site A has been underestimated in the tree survey report. It is anticipated that the extent of tree felling and vegetation clearance would be much higher than those stated in the application;
- (c) there is insufficient information to justify the proposed development and demonstrate how the marine access and the land access from the coast to the application sites could be made without affecting the ecology and existing trees; and
- (d) while the proposed development may be entitled by the lot owner under the Block Government Lease as claimed in the FI (**Appendix Id**), the area is also zoned as “CA” where development is generally not allowed under the planning intention. It is also doubtful how the transport of materials using the existing footpath, which appears narrow and not obvious, to both Sites A and B is feasible without affecting the ecology and existing trees.

### **Geotechnical Aspect**

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

- (a) H(GEO) has the following comments on the Geotechnical Planning Review Report (GPRR):

- (i) section 3.4 of the GPRR mentions ‘As the most critically orientation portion only has an elevation of 20°, Natural Terrain Hazard Study (NTHS) is considered not necessary under section 2.3.3 of GEO report No. 138’. It appears that the stated angular elevation does not reflect the base map information. The Consultant should review the angular elevation and the area of the natural hillside affecting the application site and make suitable recommendation according to the guidance stated in GEO Report No. 138 (2<sup>nd</sup> Edition);
- (ii) with regard to the filling of land/ excavation of land, section 2.4 and section 3.3 of the GPRR state that site formation works are required for the development. The applicant should be reminded that apart from the new geotechnical works under the site formation works, geotechnical assessment of the existing geotechnical features (regardless registered or not) within or in vicinity of the proposed development and any necessary upgrading/ stabilisation/ modification works should be submitted to BD and relevant departments for approval under BO/ lease conditions as appropriate; and
- (iii) the referred Drawing No. 34118/01 and the associated cross sections in the GPRR (dated January 2019) (**Appendix Ie**) do not adequately cover the entire portion of the natural hillside affecting the Sites. To justify the hillside angular elevation stated in the applicant’s response, the applicant should provide cross-section covering the entire portion of the natural hillside. Based on the correct reviewed angular elevation, the applicant should recommend the necessity of NTHS as well as the associated study area according to GEO report No. 138 (2<sup>nd</sup> Edition).

### **Fire Safety**

#### 8.1.9 Comments of the Director of Fire Services (D of FS):

- (a) D of FS has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. The arrangement of emergency vehicular access shall comply with Section 6, Part D of the ‘Code of Practice for Fire Safety in Buildings 2011’ which is administered by the BD.

### **Water Supply**

#### 8.1.10 Comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

for the provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

#### 8.2 The following government departments have no objection to/ no comment on the application:

- (a) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (b) Commissioner of Police;
- (c) Director of Food and Environmental Hygiene; and
- (d) District Officer/Islands, Home Affairs Department.

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

On 12.3.2019, 12.7.2019, 29.10.2019 the application and FIs were published for public inspection. During the first 3-week statutory public inspection periods, which ended on 2.4.2019, 2.8.2019 and 19.11.2019 respectively, 21 public comments from Kadoorie Farm and Botanic Garden Corporation, World Wide Fund For Nature Hong Kong, Hong Kong Bird Watching Society, local residents and individual members of the public were received (**Appendix II**). Of the 21 public comments received, 19 raise objection to the application, and the main grounds of objection include proposed redevelopment is not in line with the planning intention of the "CA" zone; land use incompatibility; insufficient justification to transfer a perceived right from one site to another; against redevelopment principle; adverse environmental, sewerage and drainage impacts to the surrounding areas; affect the natural environment; setting an undesirable precedent and 'Destroy First, Build Later' case should not be encouraged. The remaining two provide views on the application.

## **10 Planning Considerations and Assessments**

10.1 The application is for redevelopment of the Sites (about 524.7m<sup>2</sup>) with filling and excavation of land within the "CA" zone. The planning intention of the "CA" zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. Under the "CA" zone, there is no provision for new house or residential development. Redevelopment of existing house may be permitted with or without conditions on application to the Board. While the Sites consist of building land status, no existing houses are found both in Site A and Site B, except some ruins

within Site B and on GL adjoining Site A. The proposed development of two houses within Site A is not in line with the planning intention of the “CA” zone. There is no strong justification in the submission for a departure from such planning intention.

- 10.2 As advised by DAFC, the Sites are well-vegetated. Site A which is the proposed site for two houses is particularly covered with some trees and shrubs. DAFC also expresses that the proposed redevelopment covers an area much larger than that required by the footprint of the proposed new houses, and the total number of trees within Site A has been underestimated in the tree survey report. It is anticipated that the extent of tree felling and vegetation clearance would be much higher than that stated in the application. There is insufficient information to justify the proposed development and demonstrate how the marine access and the land access from the coast to the Sites could be made without affecting the ecology and existing trees. In view of the above, DAFC does not support the application from the nature conservation perspective.
- 10.3 While the proposed redevelopment of two NTEHs at the Sites may not be incompatible with the surrounding areas/land uses which are predominantly rural in character with natural vegetation and some low-rise/low density residential developments, CTP/UD&L, PlanD advises that the surrounding areas are vegetated with many existing trees/vegetation. The substantial land filling within Site A is likely to lead to the permanent and irreversible change of the existing landform, resulting in the irreversible change in the landscape character of Site A. According to the applicant (**Appendices Ib and Id**), footpath improvement works are proposed, which would likely cause further adverse landscape impacts on the existing trees and landform on the surrounding area. In view of the above, CTP/UD&L, PlanD also objects to the application from landscape planning perspective.
- 10.4 As the proposed redevelopment will likely constitute a designated project and the applicant has not demonstrated the environmental acceptability of proposed redevelopment, DEP does not support the application from the environmental protection perspective. Furthermore, H(GEO), CEDD considers that based on the correct reviewed angular elevation, the applicant should recommend the necessity of NTHS in the submission.
- 10.5 According to the Notes of the OZP, only redevelopment of existing house in “CA” zone may be permitted on application to the Board. However, there is no provision for proposed redevelopment for two houses within the site or transfer of redevelopment of existing house from another site. In the current application, the applicant proposes to redevelop Site A for two NTEHs and use Site B for amenity planting use, which involves transfer of redevelopment rights from Site B to Site A. According to the Notes of the OZP, no redevelopment of an existing house shall result in a total redevelopment in excess of a maximum PR of 0.4, a maximum SC of 20%, and a maximum BH of 2 storeys (7.6m) or the PR, SC and height of the existing house, whichever is the greater. Although the proposed development intensities of the proposed redevelopment do not exceed the development restrictions as stipulated under the Notes of the OZP, there is no justification in the submission to support the proposed redevelopment of two houses at Site A or the proposed transfer of redevelopment rights of Site B to Site A. Furthermore, as advised by DLO/Is, LandsD, any proposed NTEH redevelopment should be on the building portion of the two original lots only.

DLO/Is, LandsD also advises that despite the proposed PR does not exceed 0.4 as permitted under the OZP, there is no justification in the application to demonstrate why the Lots cannot be individually redeveloped to erect a house on each lot.

- 10.6 Although the applicant claims that similar application (A/ST-KYS/9) has been previously approved by the Board, that case in fact involves the redevelopment of one site comprising four contiguous sections into two Small Houses. The application site under A/ST-KYS/9 is within the 'VE' of Kong Pui Tsuen and Kwun Yam Sham. No transfer of development rights from separate site was involved. As such, A/ST-KYS/9 should not be regarded as similar application and precedent for the present application.
- 10.7 Among the 21 public comments received, 19 public comments objecting to the application mainly on the aspects including not in line planning intention, insufficient justifications, against redevelopment principle, adverse environmental, sewerage, drainage impacts, affect the natural environment, and setting an undesirable precedent. In this regards, the planning assessments as set out in paragraphs 10.1 to 10.6 above are relevant.

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

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comments in paragraph 9, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of "CA" zone which is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment from the adverse effects of development. There is no strong justification in the submission to warrant a departure from such planning intention; and
  - (b) the applicant fails to demonstrate that the proposed development would not have adverse environmental, landscape and ecological impacts to the surrounding areas.
- 11.2 Alternatively, should the Committee decide to approve the application, it is suggested that the planning permission shall be valid until 13.12.2023, 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 condition of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and



- (b) the 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.

Advisory Clauses

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

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 12.3 Alternatively, 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. Attachments**

<b>Appendix I</b>	Application form
<b>Appendix Ia</b>	Supporting Planning Statement received on 4.3.2019
<b>Appendix Ib</b>	Further information received on 3.7.2019
<b>Appendix Ic</b>	Further information received on 8.7.2019
<b>Appendix Id</b>	Further information received on 16.10.2019
<b>Appendix Ie</b>	Further information received on 24.10.2019
<b>Appendix II</b>	Public Comments received during the Statutory Publication Periods
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Indicative Schematic Drawing
<b>Drawings A-2 to A-3</b>	Landscape Master Plans
<b>Drawings A-4 to A-5</b>	Tree Survey Plans
<b>Drawings A-6 to A-7</b>	Planting Plans
<b>Drawing A-8</b>	Tree Survey Plan (Site A)
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4 to A-6</b>	Site Photos
<b>Plan A-7</b>	Aerial Photos (dated 17.1.2015 and 30.4.2017)