

REVIEW OF APPLICATION NO. A/H3/441
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Office, Shop and Services/Eating Place
in “Residential (Group A)” Zone
at 3-6 Glenealy, Central, Hong Kong
(Inland Lot (IL) 140 s.E ss.1 RP, 140 s.E. RP, IL 140 s.D RP and and IL 7986 RP)**

1. Background

- 1.1 On 24.4.2019, the applicant, Partner Link Investments Limited represented by Kenneth To and Associates Ltd., sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) to redevelop the application site at 3-6 Glenealy, Central (the Site) for a 27-storey (150mPD at main roof) office development with shop/eating place and a public passage and public landscape area. At that time, the Site was zoned “Residential (Group A)” (“R(A)”) on the draft Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/32 and subject to a maximum building height (BH) of 150mPD. The zoning and development restrictions remain unchanged on the current OZP No. S/H3/33 (**Plan R-1**). According to the Notes of the OZP for “R(A)” zone, ‘Office’, ‘Shop and Services’ and ‘Eating Place’ uses not within the lowest three floors of a building require planning permission from the Town Planning Board (the Board).
- 1.2 On 17.1.2020, the Metro Planning Committee (MPC) of the Board decided to reject the application and the reasons were:
- (a) the planning intention of the “Residential (Group A)” (“R(A)”) zone is for high-density residential developments. The applicant fails to demonstrate strong justifications to deviate from the planning intention of the “R(A)” zone; and
 - (b) approval of the application will set an undesirable precedent for similar applications in the same “R(A)” zone. The cumulative effect of approving such similar applications will aggravate the shortfall in the supply of housing land.
- 1.3 For Members’ reference, the following documents are attached:
- (a) MPC Paper No. A/H3/441B (Annex A)
 - (b) Extract of minutes of the MPC meeting held on 17.1.2020 (Annex B)
 - (c) Secretary of the Town Planning Board’s letter dated 7.2.2020 (Annex C)

2. Application for Review

2.1 On 28.2.2020, the applicant applied, under s.17(1) of the Ordinance, for a review of the MPC's decision to reject the application. In support of the review, the applicant has submitted the following documents:

- (a) Letter dated 28.2.2020 including justifications and drawings for two schemes for the proposed Pedestrian Enhancement Scheme (PES) **(Annex D)**
- (b) Further information (FI) submitted via letter dated 9.4.2020 including a Landscape Proposal, a Traffic Assessment, a Structural Assessment Report, and photomontages **(Annex E)**
(accepted but not exempted from publication and recounting requirements)
- (c) FI submitted via letter dated 22.6.2020 including responses to departmental comments and revised drawings, section plans and photomontage in relation to the PES **(Annex F)**
(accepted and exempted from publication and recounting requirements)

2.2 In the applicant's submission, two alternative schemes are proposed to justify and demonstrate the feasibility of the PES. Scheme A involves replacing the existing staircase with a new staircase (**Drawings R-5 to R-6**) and Scheme B involves building over the existing staircase with an independent platform (**Drawings R-7 to R-8**). A public accessible lift alongside the escalators connecting G/F (at level 48.08mPD) and 1/F (at level 53.8mPD) of the proposed development is proposed under both schemes. Unlike the previous scheme proposed under s.16 application where the PES would involve both a private lot and Government land, both alternative schemes would only involve Government land. Both alternative schemes would also require felling of an existing stonewall tree which is currently maintained by the Highways Department (HyD), for which compensatory trees will be provided in the proposed open landscape area on 1/F of the proposed development. The proposed platform/staircase under the respective scheme and the compensatory trees would be managed and maintained by the applicant.

3. Justifications from the Applicant

3.1 The justifications put forth by the applicant in support of the review application are detailed in the written representations (**Annexes D, E and F**) and are summarised as follows:

- (a) the PES is proposed with a view to improving the walking experience and pedestrian safety, as well as to ease the danger on Arbuthnot Road at the bottleneck via a Traffic Improvement Proposal (TIP);
- (b) the feasibility of the PES and hence the TIP on Arbuthnot Road was put in doubt under the s.16 application due to the fact that the proposed extension

platform would involve part of a private rear lane of Fortune Court;

- (c) as stipulated in G.N.192 dated 18.1.1991, road works was proposed by the then Secretary for Transport (S for T) to remove the bottleneck at Arbuthnot Road. The nature of the proposed road works included demolition and construction of retaining wall; construction of staircase; construction of carriageway and footways; and associated drainage works. The proposed roadworks would involve resumption of part of the private lot of IL 4092 RP (i.e. Fortune Court);
- (d) the proposed staircase under G.N.192 will be in conflict with the means of escape (MoE) of Fortune Court;
- (e) two alternative schemes are proposed to facilitate the intended road widening works proposed by S for T:
 - (i) Scheme A – New Staircase in Public Service Lane
A new staircase will be built within the service lane between the Site and Fortune Court to replace the existing staircase while maintaining the resident MoE from Fortune Court. Technically, the new staircase will block part of the MoE at ground floor of the proposed development but, the applicant is willing to sacrifice part of the area within his lot boundary as an escape route to facilitate the proposed new staircase.
 - (ii) Scheme B – New Staircase through Applicant’s podium
An independent at-grade platform for public pedestrian connection to Arbuthnot Road will be provided. A staircase connection between Fortune Court and Arbuthnot Road will be provided within the podium of the proposed development, to replace the demolished staircase at Arbuthnot Road.
- (f) while the two alternative schemes do not involve any land resumption in IL 4092 RP, the existing stonewall tree is proposed to be removed to allow a minimum 1.5m wide passage as required by the Transport Department (TD). The proposed tree felling would be compensated by a landscaped open space on 1/F of the proposed development and 9 nos. of compensatory trees on a one-to-one Diameter at Breast Height (DBH) ratio will be provided;
- (g) an additional public accessible lift alongside the escalators connecting G/F and 1/F is proposed under both schemes;
- (h) putting forward the PES under the application is the last opportunity to remove the bottleneck and bring significant improvement on traffic condition of Arbuthnot Road and to realise the Government’s proposal gazetted in 1991 which has not been executed; and
- (i) the applicant is willing to take up the maintenance responsibility of the new platform/staircases proposed to be erected on Government land.

4. The Section 16 Application

The Site and Its Surrounding Areas (Plans R-1, R-2 and R-5 to R-11)

- 4.1 The situations of the Site and its surrounding areas at the time of the consideration of the s.16 application by MPC were described in paragraph 8 of **Annex A**. There has been no material change since then.

Planning Intention

- 4.2 There has been no change in the planning intention of the “R(A)” zone, as mentioned in paragraph 9 of **Annex A**, which is recapitulated below:

The “R(A)” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

Town Planning Board Guidelines

- 4.3 The Town Planning Board Guidelines for ‘Application for Office Development in “Residential (Group A)” Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 5), which was relevant to the consideration of the s.16 application, is still relevant. The relevant assessment criteria of the Guidelines were summarised in paragraph 5 of **Annex A**.

Previous Application

- 4.4 The Site involves a previous application (No. A/H3/438) (**Plan R-1**) for a proposed 22-storey commercial building with office and shop and services/eating place uses submitted by another applicant. On 11.1.2019, the Board rejected the application on review on the grounds of insufficient justifications to deviate from the planning intention, and approval of the application would set an undesirable precedent for similar applications and aggravate the shortfall in the supply of housing land. On 15.3.2019, the applicant lodged an appeal to the Town Planning Appeal Board (TPAB) against the Board’s decision on rejecting the application upon review. The dates of the hearing by the TPAB are scheduled on 21 to 23 September 2020 and 19 and 20 October 2020.

Similar Applications

- 4.5 Details of the 3 similar applications at the time of the consideration of the s.16 application were mentioned in paragraph 7 of **Annex A**. There has been no change in the number of similar applications since then.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments were stated in paragraph 10.1 of **Annex A**.

- 5.2 For the review application, relevant government departments have been further consulted and their views on the review application are summarised as follows:

Land Administration

5.2.1 Comments of the District Lands Officer/Hong Kong West and South, Lands Department (DLO/HKW&S, LandsD):

- (a) the Site falls within the private lots, namely IL 140 s.E ss.1 RP, IL 140 s.E RP, IL 140 s.D RP and IL 7986 RP. The Government lease governing the above-mentioned sections of IL 140 is virtually unrestricted where IL 140 s.D RP is subject to an “offensive trade” clause. As for IL 7986 RP, the lot shall be used for residential and commercial purposes only;
- (b) for the proposed eating places use within IL 140 s.D RP, application from the concerned lot owners for the removal of several offensive trades from the “offensive trade” clause is required;
- (c) since the proposed development does not contain any residential elements, it is considered in breach of the user restriction under the lease conditions governing IL 7986 RP. Thus, if planning permission is given to the subject application, the owner of IL 7986 RP is required to apply to LandsD for a lease modification. The lease modification application, if received, will be considered by LandsD acting in the capacity as the landlord as its sole discretion. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of premium and fees as may be imposed by LandsD;
- (d) as the concerned sections of IL 140 within the Site were carved out under private agreement(s), notwithstanding the applicant is not a current land owner of the concerned sections of IL 140, it is advised to carry out necessary survey to ensure the accuracy of the site area at building plan submission stage and submit relevant survey to District Survey Office/Hong Kong for verification, if necessary;
- (e) the proposed upgrading works for a section of footpath and carriageway of Arbuthnot Road fall within the public road. Agreement from TD and HyD on the proposed upgrading works should be sought; and
- (f) the concerned tree No. HYD/CW/004, which is a stonewall tree under the Tree Register and is situated on a Government slope Feature No. 11SW-B/R74 both being maintained by HyD, comment from HyD should be sought on the applicant's proposal to fell the concerned tree and the applicant is reminded to obtain necessary prior approval before commencement of any tree works.

Proposed TIP and PES

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

- (a) subject to the following conditions, TD considers that the TIP and PES would notably enhance safety of road users at Arbuthnot Road as well as the pedestrian connectivity and environment in the vicinity:
 - (i) the minimum 1.5m wide continuous passageway shall be provided between Glenealy and Arbuthnot Road via the proposed development, as indicated in their PES, and shall be opened to public free of charge and round the clock without interruption;
 - (ii) the design and construction of the proposed staircase and platform at public rear lane shall be up to current design standard of HyD and this department, and shall be constructed to the satisfaction of HyD;
 - (iii) the proposed 24-hour public passage within the proposed development shall be enforceable; and
 - (iv) the applicant shall at his own cost consult the locals and adjacent lot owners using the rear lane and undergo all necessary statutory procedures for implementing the proposed scheme and proposal.
- (b) in relation to (i) above, if the minimum 1.5m wide passageway could not be provided, it is considered a proper pedestrian connection between the proposed development and Arbuthnot Road/existing rear lane could not be formed, and this department would have reservation on the PES;
- (c) the proposed road works gazetted in 1991 was to widen the bottleneck section of Arbuthnot Road as well as to provide a footpath for the benefit of the general public. The bottleneck between 18 and 26 Arbuthnot Road still exists today; and
- (d) the existing footpath at the bottleneck section of Arbuthnot Road is very narrow and there is no proper footpath outside 15-21 Arbuthnot Road. The TIP suggested by the applicant could enhance the road safety and pedestrian environment from traffic engineering view point.

5.2.3 Comments of the Chief Highways Engineer/Hong Kong (CHE/HK), HyD:

- (a) this department would not take up the maintenance responsibility of the platform/staircases proposed by the applicant at the rear lane;
- (b) for the proposed works within the existing public footpath and carriageway maintained by HyD, he has no objection to take up their maintenance responsibility provided that these are constructed in accordance with HyD's standards and up to HyD's satisfaction;

- (c) based on the submitted information, he has reservation on the proposed felling of the stonewall tree (HYD/CW/004). According to Management Guidelines for Stonewall Trees (DEVB 2013), stonewall trees are unique trees which enrich the urban ecology and offer greenery to ameliorate the congested urban environment in Hong Kong. The applicant should endeavour to preserve the stonewall tree as the schemes will remove the unique tree mentioned in the guidelines;
- (d) the proposed works under the two alternative schemes should not adversely affect the stability nor induce additional surcharge to Feature No. 11SW-B/R74. Besides, the maintenance responsibility of the portion of Feature No. 11SW-B/R74 affected by the proposed works should be transferred to the applicant, as the proposed works would obstruct and affect the future highways slope maintenance works. In this regard, if the affected portion of feature no. 11SW-B/R74 is transferred to the applicant, the maintenance responsibility of the stonewall tree (HYD/CW/004) should also be transferred to the applicant;
- (e) a 1.5m clearance between the unaffected portion of Feature No. 11SW-B/74 and the proposed works should be allowed for our routine maintenance works for Feature No. 11SW-B/74;
- (f) the proposed PES involves permanent closure of the area of the existing staircase, forming a platform over the existing staircase and diverting the pedestrian traffic to a passageway inside the lot boundary of 3-6 Glenealy. This may affect the road users and the adjacent residents in using the existing rear lane. The applicant should at his own cost conduct local consultation and undergo all statutory procedures necessary for the implementation of the proposed works; and
- (g) the two schemes involving modification to the existing staircases at rear lane would affect the maintenance of the existing utilities fixed on walls. The applicant should consult the relevant utility undertakers.

Geotechnical Aspect

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

- (a) no geotechnical comments on the application and the proposed PES;
- (b) Feature No. 11SW-B/R74 is a 4m high retaining wall located in the vicinity of the Site. According to the GEO Advice Note for Planning Applications under Town Planning Ordinance (Cap. 131), the Site does not meet the requirement for a Geotechnical Planning Review Report (GPRR);

- (c) if the above-mentioned feature would be affected, the applicant should seek the comments and obtain necessary approvals from relevant government departments before commencement of the proposed works;
- (d) it is noted from the Structural Assessment Report that the proposed independent R.C. staircase structure will impose additional surcharge in front of Feature No. 11SW-B/R74. The applicant should seek comments and obtain necessary approvals from the relevant government departments before commencement of the proposed works; and
- (e) no geotechnical comment on the Structural Assessment Report from the point of view of planning application only. Detailed geotechnical comments on the stability assessment for the effect of the proposed staircase structure to Feature No. 11SW-B/R74 will be provided in conjunction with future submission of detailed design report.

Urban Design & Landscape Aspects

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

- (a) no comment on the proposal from urban design/visual impact perspectives;
- (b) no objection from landscape planning perspective;
- (c) the Site is situated in an area of urban landscape character and medium to high rise residential and commercial buildings are common in the surrounding areas. The proposed development is considered not incompatible with the existing landscape character;
- (d) significant change or disturbances arising from the proposed development to the existing landscape character and resource is not anticipated; and
- (e) the stonewall tree (HYD/CW/004) proposed to be felled under the two alternative schemes is outside the planning application site boundary.

5.3 The following government departments have no further views/comments on the review application and maintain their previous views on the s.16 application as stated in paragraph 10 of **Annex A**:

- (a) Chief Building Surveyor/Hong Kong West, Buildings Department;
- (b) Director of Environmental Protection;
- (c) Chief Engineer/Hong Kong & Islands, Drainage Services Department;
- (d) Director of Fire Services;
- (e) Chief Architect/Central Management Division 2, Architectural Services Department; and

(f) District Officer (Central and Western), Home Affairs Department.

5.4 The following government departments maintain their views of having no comment on the application:

- (a) Project Manager (South), CEDD;
- (b) Chief Engineer/Construction, Water Supplies Department; and
- (c) Road Management Office (Traffic Hong Kong Island), Hong Kong Police Force.

6. Public Comments Received During Statutory Publication Periods

6.1 On 13.3.2020 and 24.4.2020, the review application and its FI were published for public inspection. During the statutory public inspection periods, a total of 31 opposing comments were received from Central & Western Concern Group, Incorporated Owners of Glenealy Tower, Owners Committee of Fortune Court and individuals (**Annex F**). Their major opposing grounds are summarised as follows:

- (a) given the housing shortage and the Government's policy on increasing housing land, the Site should be retained for residential use and approval of the application will be against the current policy;
- (b) commercial development is not compatible with the surroundings which are predominated by residential development, and the construction work would bring prolonged serious noise and air pollution to the residents nearby;
- (c) Glenealy is already very congested with frequent traffic congestions as it is an access from the Mid-Levels to Central. Double parking along Glenealy further reduces Glenealy to one lane. The road is unlikely to accommodate additional traffic generated by the proposed development. The proposed commercial development will increase the traffic pressure on this steep and narrow road and the surrounding road network;
- (d) the increased traffic flow to the steep-sloped Glenealy may bring dangers to pedestrians, in particular the children of the nearby schools. Two traffic accidents have happened in recent months near the Site;
- (e) the proposed L/UL facilities are inadequate and traffic will spill out to Glenealy which is already congested;
- (f) cutting down the stonewall tree will affect the surrounding environment;
- (g) while the pedestrian flow in Arbuthnot Road is limited, widening Arbuthnot Road will attract more traffic and will only benefit the applicant;
- (h) there is no pressing need to increase the commercial space near CBD, as more people are working from home during the Covid-19 pandemic; and

- (i) the Site is in close proximity to heritage sites such as the Government House, Tai Kwun, Bishop Hill and Hong Kong Zoological and Botanical Gardens. The proposed development will adversely affect the heritage precinct.
- 6.2 At the s.16 stage of the application, a total of 231 public comments were received, including 142 supporting and 89 opposing comments. Their major views were summarised in paragraph 11 of **Annex A** with a full set of the public comments at Appendix V of **Annex A**.

7. Planning Considerations and Assessment

- 7.1 The applicant applies for a review of the MPC's decision on 17.1.2020 to reject the s.16 application for redeveloping the Site for office, shop and services and eating place uses. The rejection reasons were that the applicant fails to demonstrate strong justifications to deviate from the planning intention of the "R(A)" zone; and approval of the application will set an undesirable precedent for similar applications in the same "R(A)" zone and the cumulative effect of approving such similar applications will aggravate the shortfall in the supply of housing land.
- 7.2 In support of the subject review application, the applicant has submitted written representations to justify and demonstrate the feasibility of the PES, including two alternative schemes and supporting Traffic Assessment, Structural Assessment Report, Landscape Proposal and photomontages (**Annexes E and F**). According to the submissions, the two alternative schemes, namely replacing the existing staircase with a new staircase within the existing service lane between the Site and the adjoining lot occupied by Fortune Court (Scheme A), and building over the existing staircase with an independent platform (Scheme B), would only involve Government land. However, both schemes would require felling of an existing stonewall tree which is currently maintained by HyD (**Plan R-4**).
- 7.3 Since the consideration of the s.16 application by the MPC on 17.1.2020, there has been no material change in the planning circumstances of the case. While the applicant has proposed two alternative schemes for the PES, the planning considerations and assessments set out in paragraph 12 of **Annex A** should remain largely valid and hence there is no new planning consideration to those submitted to and considered by the MPC resulting in its decision to reject the application.

Planning Intention and Land Use Compatibility

- 7.4 The Site is zoned "R(A)" which is intended primarily for high-density residential development with commercial uses always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building. In general, sites should be developed in accordance with the planning intention of the zoning as shown on the OZP unless strong justifications have been provided for a departure from such planning intention.
- 7.5 The Site is currently occupied by two medium-rise residential buildings. The immediate neighbourhood of the Site is predominantly residential in nature with Greenville to its northeast, Glenealy Mansion and 8-9 Glenealy to its southwest, and

Fortune Court, Mandarin Court, Arbuthnot House and Shin King Court to its northwest (**Plan R-2**). In a wider context, the neighbourhood of the Site also includes commercial developments along Wyndham Street and historical sites/buildings such as the Former Central Police Station (i.e. Tai Kwun) to the west and the Sheng Kung Hui Compound to the east. The Site and its surrounding area were rezoned from “C/R” to “R(A)” in 2010 with the planning intention to maintain the residential nature of the area (**Plan R-3**). Although the proposed office development with shop and services/eating places on the lower floors (i.e. G/F and 1/F) is considered not incompatible with the surrounding developments, it is not fully in line with the planning intention of the “R(A)” zone.

Undesirable Precedent and Cumulative Effect on Housing Land Supply

- 7.6 The Site of about 1,088.3m² involves two residential buildings currently providing about 73 residential units. The Site takes up a significant portion of the street block bounded by Glenealy and Arbuthnot Road under the “R(A)” zone, which is about 25% in terms of the total land area of the “R(A)” zone (about 4,334m²). Any change in the use of the Site to office development would mean a loss of the existing residential units, and may induce similar change in other residential developments within the same street block. While the Board will consider each application on its individual merits, the Board is also expected to act consistently and come to a similar conclusion on applications with a similar planning context. Hence, approval of the application without strong justifications will set an undesirable precedent for similar applications for other residential sites in the same “R(A)” zone, resulting in cumulative loss of residential land, as well as cumulative impacts on other aspects including traffic impact.
- 7.7 Notwithstanding the applicant’s claim on the limited office supply in Central in the s.16 application, it should be noted that there is a shortage of all kinds of land, including housing, economic, infrastructure and facilities, as pointed out in the report of the Task Force on Land Supply published on 31.12.2018. The shortage of both housing land and economic land can also be reflected by the upward trend of rental and price indices for private domestic properties and offices as documented in Hong Kong Property Review 2018. As such, sites zoned for residential use should be retained for its zoned purpose to meet the acute housing demand. The applicant fails to demonstrate strong justifications for the proposed office development at the Site.

Town Planning Board Guidelines (TPB PG-No. 5)

- 7.8 While the applicant claimed that the proposed development is able to meet all the planning criteria set out in TPB PG-No.5, it should be noted that the decision to approve or reject an application rests entirely with the Board based on individual merits and other specific considerations of each case. As mentioned in paragraph 7.5 above, the Site is located within a predominantly residential neighbourhood and the proposed development not fully in compliance with criteria (e) of TPB PG-No.5. Besides, apart from the planning criteria set out in TPB PG-No.5, the Board would need to take into account other relevant considerations including the planning intention of the Site as stated in the OZP and implications of approving the application.

Planning Merit

- 7.9 According to the applicant, the proposed development can help improve the pedestrian environment and ease the danger on Arbuthnot Road through the provision of setback along Glenealy and the TIP which comprises road works for widening of the existing carriageway and footpath of Arbuthnot Road (**Drawings R-13 to R-15**), and the PES (either Scheme A or Scheme B) to connect the existing footpath of Arbuthnot Road via the proposed development to Glenealy with the provision of a barrier free access (**Drawings R-6 and R-8**). C for T considers that the TIP and PES would enhance the safety of the road users at Arbuthnot Road and the pedestrian connectivity and environment in the vicinity.
- 7.10 According to the applicant, the existing stonewall tree is in direct conflict with the proposed PES and is proposed to be felled so as to meet TD's requirement of 1.5m wide passageway (**Plan R-4**). As the subject stonewall tree is a registered stonewall tree in the Government's Tree Register and is currently maintained by HyD, HyD has reservation on the proposed felling of the tree and advised that the applicant should endeavour to preserve the stonewall tree. It should be noted that if the stonewall tree could not be felled, the width of the proposed platform/staircase at Arbuthnot Road would not be able to meet TD's minimum requirement of 1.5m. As a proper pedestrian connection between the proposed development and Arbuthnot Road could not be formed, TD would have reservation on the proposed PES from traffic engineering point of view.
- 7.11 While the proposed TIP and PES would have the potential to improve the pedestrian safety and connectivity of the area, the feasibility of implementing the PES has not yet been fully demonstrated due to the above concern on the stonewall tree. Hence, the planning gain claimed by the applicant has yet been proven. There is therefore no strong justification or special circumstances for a deviation from the planning intention of the "R(A)" zone and the application does not warrant a favourable consideration by the Board.

Previous Application and Similar Applications

- 7.12 Since the consideration of the previous application (A/H3/438) by the Board on 11.1.2019, there is no material change in planning circumstances of the Site. While the applicant has proposed the TIP in the current application as the planning gain of the proposed office development, the planning considerations for the previous application regarding no strong justifications to deviate from the planning intention, setting undesirable precedent and aggravating the shortfall of housing land remain valid, and the feasibility of the proposed PES has yet to be fully demonstrated. There is therefore no strong justification to deviate from the previous decision of the Board.
- 7.13 Unlike the application site (i.e. 2-4 Shelley Street) of the two approved similar applications (A/H3/402 and A/H3/432), which is surrounded on 3 sides by existing commercial buildings, the Site is located in a predominantly residential area. Moreover, it should be noted that the planning permission for A/H3/402 was granted in 2012 before the policy to address the pressing need for housing had been in place and planning application No. A/H3/432 was an amendment to the approved scheme under the Planning Application No. A/H3/402. Given the differences in site context

and planning history, the current application should be considered on its own merits and the Board is not bound by the decision in respect of the approved similar applications.

Public Comments

7.14 There are public comments opposing the review application on various grounds, including concerns on the traffic impacts caused by the proposed development, felling of the existing stonewall tree, reduction of land supply for residential use and adverse impact on heritage. The considerations and assessments in paragraphs 7.4 to 7.13 above and the comments of the relevant government departments in paragraph 5 are relevant.

8. Planning Department's Views

8.1 Based on the assessment made in paragraph 7 above and having taken into account the public comments mentioned in paragraph 6 above, given that there has been no change in planning circumstances since the consideration of the subject application by the MPC on 7.9.2018, PlanD maintains its previous view of not supporting the application for the following reasons:

- (a) the planning intention of the "R(A)" zone is for high-density residential developments. The applicant fails to demonstrate strong justifications to deviate from the planning intention of the "R(A)" zone;
- (b) approval of the application will set an undesirable precedent for similar applications in the same "R(A)" zone. The cumulative effect of approving such similar applications will aggravate the shortfall in the supply of housing land.

8.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid until 3.7.2024, 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 conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the design and provision of the vehicular access, car parking and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) the provision of setback from the site boundary fronting Glenealy, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the design and implementation of the traffic improvement proposal at Arbuthnot Road, including the pedestrian enhancement scheme, as proposed by the applicant, prior to the occupation of the proposed development, to the

satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board;

- (d) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (e) the implementation of the local sewerage upgrading/sewerage connection works as identified in the SIA to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are in **Annex H**.

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the application on review, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the application on review, 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.

Attachments

Drawings R-1 to R-12	Floor plans and section plan
Drawings R-13 to R-15	Traffic Improvement Proposal
Drawings R-16 to R-20	Landscape Proposal
Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Location Plan on previous OZPs
Plan R-4	Comparison of Scheme A and Scheme B of Pedestrian Enhancement Scheme (PES)
Plans R-5 to R-11	Site Photos
Annex A	MPC Paper No. A/H3/441B
Annex B	Extract of minutes of the MPC meeting held on 17.1.2020
Annex C	Secretary of the Board's letter dated 7.2.2020

Annex D	Applicant's letter dated 28.2.2020 applying for a review of MPC's decision with supporting justifications and drawings
Annex E	Further Information dated 9.4.2020
Annex F	Further Information dated 22.6.2020
Annex G	Public Comments on the review application
Annex H	Recommended Advisory Clauses

**PLANNING DEPARTMENT
JULY 2020**