

REVIEW OF APPLICATION NO. A/H3/438
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 27.4.2018, the applicant, Million Base Properties Limited and Million Basis Property Limited represented by Kenneth To and Associates Ltd, sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) to develop a 22-storey (131.15mPD at main roof) office development at a plot ratio (PR) of 12 with shop/eating place on LG/F to 2/F at 3-6 Glenealy, Central (the Site). At that time, the Site was zoned “Residential (Group A)” (“R(A)”) on the approved Sai Ying Pun & Sheung Wan Outline Zoning Plan (OZP) No. S/H3/31 and subject to a maximum building height (BH) of 150mPD. The zoning and development restrictions remain unchanged on the current OZP No. S/H3/32 (**Plan R-1**).
- 1.2 On 7.9.2018, the Metro Planning Committee (MPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
- (a) the proposed office development is not in line with the planning intention of the “R(A)” zone which is for high-density residential developments. The approval of the application will result in a reduction of housing supply;
 - (b) the applicant fails to demonstrate that the site is not conducive to residential development; and
 - (c) approval of the application will set an undesirable precedent for similar applications in the same “R(A)” zone. The cumulative effect of approving such applications will aggravate the shortfall in the supply of housing land.
- 1.3 The table below sets out the main development parameters and floor uses of the proposed development.

Site Area	1,088.3m ² (about) (Plan R-2)
Non-domestic Plot Ratio (PR)	12
Total non-domestic GFA	13,049.38 m ²
- Office	10,757.64 m ²
- Shop and Services/Eating Place	2,291.74 m ²
No. of Blocks	1

BH	131.15mPD (at main roof)
No. of Storeys	22
Site Coverage (SC)	Not more than 65% (above podium)
Building Setback	Approximate 2.7m away from the site boundary along Glenealy
Car Parking Spaces - Private Car - Motorcycle	63 7
Loading/Unloading (L/UL) Facilities	6 L/UL bays for Light Goods Vehicle
Major Uses by floor:	
B1/F to B3/F	Car Park
LG/F	Lobby / Cafe / L/UL Bay
G/F to 2/F	Shop / Eating Place / E&M facilities
3/F-17/F	Office
Roof	E&M facilities

1.4 For Members' reference, the following documents are attached:

- (a) MPC Paper No. A/H3/438A (Annex A)
- (b) Extract of minutes of the MPC meeting held on 7.9.2018 (Annex B)
- (c) Secretary of the Town Planning Board's letter dated 21.9.2018 (Annex C)

2. Application for Review

2.1 On 12.10.2018, 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 written representations:

- (a) Letter dated 12.10.2018 including a research report on Hong Kong land supply for office prepared by Jones Lang LaSalle Limited, and the Court of Appeal's ruling on the case of 'International Trader Ltd. vs Town Planning Board'; and (Annex D)
- (b) Letter dated 30.11.2018 including the applicant's legal opinion on the MPC's rejection reasons (*accepted and exempted from publication and recounting requirements*) (Annex E)

3. Justifications from the Applicant

3.1 In support of the review application, the applicant provided justifications against the rejection grounds of MPC. They can be summarised as follows:

Rejection reasons (a) and (b) contradict the Town Planning Board Guidelines

- (a) the Town Planning Board Guidelines (TPB Guidelines) for Application for Office Development in "Residential (Group A)" Zone under Section 16 of the

Town Planning Ordinance (TPB PG-No. 5) provide an established set of planning criteria to assess whether a proposed office development within the “R(A)” zone is acceptable. MPC’s consideration with regard to housing policy does not form part of the assessment criteria and cannot override the TPB Guidelines which are to be read together with the statutory OZP;

- (b) none of the planning criteria set out in TPB PG-No.5 is related to ‘whether the site is conducive to residential development’. Rejecting an application for office use based on a criterion outside the scope of TPB PG-No. 5 is arbitrary and unjustified;
- (c) the applicant has demonstrated that the main planning criteria as set out in TPB PG-No. 5 have been met and no government department has objection to the proposed development. Hence, the application must be given a favourable consideration;

Keen demand for office floor space

- (d) steady provision of office floor space is an important planning gain. The constantly low vacancy rate and high rental cost of office space demonstrate that there is a shortage of office supply which would affect the regional competitiveness of Hong Kong. As there is a shortage in office supply, the intention of TPB PG-No. 5 to meet part of the increasing office demand through redevelopment of residential buildings within “R(A)” zone for office use is still valid. This point was not properly considered by MPC;

Unreasonable and contrary to the Notes of OZP for “R(A)” zone

- (e) rejecting applications for office use is not an effective measure to ensure the continued residential use of the Site, as the Site can still be redeveloped into other non-domestic uses which are Column 1 uses under the “R(A)” zone;
- (f) rejection reasons (a) and (b) suggest that each of the uses in Column 2 is subject to an unwritten rule that planning permission for such use will not be granted unless it can be shown that the Site is “not conducive to residential development”, while ‘Flat’ and ‘House’ are only 2 of the 13 different uses permitted in Column 1;
- (g) when considering planning applications, MPC should assess the application strictly against the background of the OZP including the Notes and Explanatory Statement and, where relevant, as supplemented by the TPB Guidelines. To do otherwise is contrary to the established principles distinguishing between the Board’s roles of ‘plan-making’ and ‘planning application approval’ which must not be blended or confused with each other. The relevant legal principles were clearly set out by the Court of Appeal in *International Trader Ltd v Town Planning Appeal Board* [2009] 3 HKLRD 339 (Annex 4 of **Annex D**), which held that:
 - (i) when determining an application for planning permission under section 16 or section 17 of the Ordinance, the Board does not have the power to

have regard to any and all planning considerations which it believes would assist it to reach the decision in the public interest;

- (ii) the Board must not confuse its dual roles of systematic creation of draft plans (i.e. the ‘plan-making’ role) and consideration of applications for permission (i.e. the ‘planning application approval’ role);
 - (iii) the Board’s discretion must be exercised within the parameters of the OZP. If the Board takes into account considerations which fall outside the ambit of the OZP, it acts *ultra vires*.
- (h) to provide for an increase in housing supply through the planning system, the appropriate and direct way for the Board is via an amendment of the relevant statutory plans, i.e. to exercise the Board’s ‘plan-making’ role;
- (i) PlanD did not provide MPC with details of the government’s policy on housing including the location where housing supply is to be provided, the types of housing needed, or other measures being implemented by the government to provide housing. In the absence of such details, it is impossible to make any reasonable planning assessment on the impact of the application on housing supply;
- (j) it is not possible to compare the planning gains of residential development against that of the proposed office development;

Approving the application is not an “undesirable precedent”

- (k) the Board must give consideration to each application on its individual merits. Therefore, rejection reason (c) cannot be treated as a ground for rejection;

Similar application has been approved by the Board

- (l) the nature and site characteristics of the subject application are similar to that of a recently approved application in Wan Chai Outline Zoning Plan (Application No. A/H5/411). Similar to the approved application, the site at Queen’s Road East (‘the QRE site’) is also located right next to the CBD (35m off the “Commercial” zone of Central);
- (m) application No. A/H5/411 was approved by MPC even after taking into account the implication on housing supply and the projected decrease in population of Wan Chai district. For the subject application (No. A/H3/438), there was no record of discussion on the housing supply or the population at the MPC meeting;
- (n) as both applications (Nos. A/H3/438 and A/H5/411) fulfilled the TPB Guidelines, and both applications failed to demonstrate that they were not conducive to residential development, they should share the same decision by MPC.

4. The Section 16 Application

The Site and Its Surrounding Areas (Plans R-2 to R-6)

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

Planning Intention

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

Town Planning Board Guidelines

- 4.3 TPB PG-No. 5 is relevant to the consideration of the s.16 application and is still valid. The relevant assessment criteria of the Guidelines are set out at paragraph 5 of **Annex A**.

Previous and Similar Applications

- 4.4 There is no previous application in respect of the Site. The similar applications at the time of the consideration of the s.16 application are mentioned in paragraph 7 of **Annex A**. Since then, there has been one additional similar application (No. A/H3/436) which was rejected by MPC on 21.9.2018 for the same reasons.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 10.1 of **Annex A**.
- 5.2 For the review application, the following government departments have been further consulted and their views together with their previous comments on the s.16 application are summarised below:

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 private lots, namely IL 140 s.E ss.1 RP, IL 140 s.E RP, IL 140 s.D RP and IL 7986 RP. As the sections of the lots within the Site were carved out under private agreement(s), the lot owner 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;
- (b) the government lease governing IL 140 s.D RP is subject to restrictions including non-offensive trade clause. For the proposed eating place

use, application for licence to remove several offensive trades from the non-offensive trade clause is required; and

- (c) the current proposal submitted by the applicant does not conflict with the lease conditions governing the Site save and except for the aforesaid non-offensive trade restriction in respect of IL 140 s.D RP; and so, if the application is approved by the Board, the applicant is not required to seek lease modification from LandsD to implement it except for an offensive trade licence. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification.

Traffic Aspect

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

- (a) having reviewed the TIA and the supplementary information on the TIA, there is no further comment on the application from traffic engineering point of view;
- (b) the TIA report and its supplementary information showed that the existing major junctions near the proposed development can still accommodate the expected traffic growth and the additional trips generated and attracted by the proposed development in year 2025; and
- (c) TD welcomes the proposal of building setback of about 2.7m to make way for a wider footpath. The existing footpath of about 2.9m will then be widened to about 5.6m to provide space for landscaping and/or street furniture to enhance the street amenity and walking environment.

Building Aspect

5.2.3 Comments of the Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW, BD):

- (a) it is noted that the SC proposed by the applicant exceeds that permitted in the First Schedule of the Building (Planning) Regulations (B(P)R). If the applicant intends to apply for flexibility in determining SC under regulation 20 of B(P)R upon formal plan submission, the requirements in PNAP APP-132 and the SBD guidelines stipulated in PNAP APP-151 & 152 should be complied with;
- (b) means of escape arrangement should comply with the Code of Practice for Fire Safety in Buildings 2011; and
- (c) detailed comments on the proposal will be given at formal building plans submission stage.

Environmental Aspect

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

- (a) as office developments are normally provided with centralized air conditioning system, the applicant/Authorized Persons should be able to select a proper location for fresh-air intake at the detailed design stage to avoid exposing future occupants from unacceptable environmental nuisances/impact; and
- (b) should the Board approve this application, approval conditions requiring the applicant to submit a sewerage impact assessment (SIA) to the satisfaction of DEP or of the Board; and to implement the local sewerage upgrading/sewerage connection works identified in the SIA to the satisfaction of the Director of Drainage Services (DSD) or of the Board are recommended to be included in the planning permission.

Sewerage Aspect

5.2.5 Comments of the Chief Engineer/Hong Kong & Islands (CE/HK&I), DSD:

- (a) no objection to the application;
- (b) the applicant is required to demonstrate with hydraulic calculations that the existing downstream public sewage facilities have adequate capacity to accommodate the flow from the proposed development. If required, the applicant should bear all costs and undertake improvement/ upgrading works to the existing public sewerage systems for handling additional discharge due to the proposed development to the satisfaction of DSD; and
- (c) the applicant should seek the approval of SIA from the Environmental Protection Department.

Fire Safety Aspect

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

- (a) no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department. Detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
- (b) as no details of the emergency vehicular access (EVA) have been provided, comments could not be offered at the present stage. Nevertheless, the applicant is advised to observe the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by BD.

Urban Design & Visual Aspect

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

- (a) no comment on the proposal from urban design/visual impact perspective; and
- (b) the Site is in close proximity to an area zoned “Commercial” along Wyndham Street, which is within an area shown as “SOHO and its immediate adjoining area” under the Explanatory Statement of the OZP. The scale of the proposal is not considered incompatible with the surrounding planning context. The proposed eating place/shop and services uses on the lowest three floors of the development would also help inject vibrancy and interest to the adjoining streetscapes.

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

- (a) the proposed use, development massing and intensity may not be incompatible with the adjacent developments with BH restriction ranging from 120mPD to 200mPD. In this regard, there is no comment from the visual impact point of view;
- (b) 20% greenery within the Site should be provided in accordance with PNAP APP-152; and
- (c) for the section plan in Appendix 1 of the planning statement (**Drawing R-6**), the floor-to-floor height for each floor and the main roof height in mPD should be clearly indicated.

Landscape Aspect

5.2.9 Comments of CTP/UD&L, PlanD:

- (a) 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;
- (b) significant change or disturbances arising from the proposed development to the existing landscape character and resource is not anticipated; and
- (c) there is no landscape/greening treatments for the proposed development. The applicant should explore and maximise the provision of greening to improve the landscape and visual amenity in this application as far as practical.

Others

5.2.10 Comments of the District Officer (Central and Western), Home Affairs Department (DO(C&W), HAD)

- (a) redevelopment of the Site into a 22-storey office block is a matter of considerable public concern in light of the adverse traffic, air ventilation and environmental impacts brought about by the redevelopment, as well as the demand for residential land in the area; and
- (b) we note that some members of the public have lodged objection to the captioned application. We trust that the Board will take all the public views received into account when deliberating the application.

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

- (a) Project Manager (South), Civil Engineering and Development Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department ;
- (c) Chief Highway Engineer/Hong Kong, Highways Department ;
- (d) Chief Engineer/Development (2), Water Supplies Department;
- (e) Road Management Office (Traffic Hong Kong Island), Hong Kong Police Force; and
- (f) District Operations Officer (Central District), Hong Kong Police Force.

6. Public Comments Received During Statutory Publication Period

6.1 On 26.10.2018, the review application was published for public inspection. During the first 3 weeks of the statutory public inspection period, which ended on 16.11.2018, a total of 55 comments were received. Amongst the public comments received, there are 44 supporting comments from individuals; and 11 opposing comments from individuals. A full set of the public comments are at **Annex F** for Members' reference.

6.2 The major grounds of the public comments are summarised as follows:

Supporting Comments

- (a) in view of the strong demand for office space, the proposal can increase the supply of office space near the CBD to meet the demand especially for the start-up companies, co-working space, and small and medium enterprises, and to alleviate the problem of high office rental cost;
- (b) the proposed development provides more bars and eating places in the vicinity of the Wyndham Street and Lan Kwai Fong area to cater for the increasing

demand from business operators, tourists and local people for bars and restaurants;

- (c) the proposed development is compatible with the neighbourhood as the Site is located near the commercial buildings, bars and restaurants in the vicinity. The proposed development will not generate adverse land use interface;
- (d) the Board's rejection reasons for the s.16 application are unreasonable, while the proposed development is not incompatible with the surrounding environment, complies with the TPB Guidelines and all relevant government departments have no objection to the proposal;
- (e) the approval of a similar application (No. A/H5/411) gives the impression that the Board is moving the goal posts without strong technical justifications. The applicant of No. A/H5/411 did not give proof that the application site is not conducive to residential development;
- (f) the rejection reason (c) is self-contradictory as the Board should consider each case on its own merits;

Opposing Comments

- (g) given the housing shortage and the pressing demand for housing land, the Site should be retained for residential use;
- (h) Glenealy is already very congested and is unlikely to accommodate additional traffic generated from the proposed development;
- (i) Glenealy is always a bottleneck area causing traffic congestion to the surrounding area, especially Albany Road. The roadside car parking on Glenealy has reduced the road from two lanes to one lane, especially during weekdays;
- (j) the proposed commercial development will increase the traffic pressure on this steep and narrow road and the surrounding road network, which will cause additional noise pollution and safety problem to the neighbourhood;
- (k) commercial development is not compatible with the surroundings, and additional restaurants and bars will bring hygiene problem to the neighbourhood; and
- (l) the Site is not easily accessible by public transport as Glenealy is steep. It is more appropriate for residential use than an office development.

7. Planning Considerations and Assessment

- 7.1 The applicant proposes to redevelop the two existing residential buildings into a 22-storey office building with 15 office levels, 4 levels of eating place and shop and services, and 3 levels of basement car parks, providing 63 car parking spaces, 7

motorcycle spaces and 6 L/UL bays for light good vehicles. The proposed BH of the development is 131.15mPD which is within the BH restriction on the OZP. The applicant also proposes a setback of about 2.7m from the site boundary fronting Glenealy for a wider footpath (from about 2.9m to about 5.6m) to provide space for landscaping and/or street furniture to enhance the street amenity and improve the walking environment.

- 7.2 The applicant applies for a review of the MPC's decision on 7.9.2018 to reject the s.16 application. The rejection reasons are, as stated in paragraph 1.2 above, that the proposed development is not in line with the planning intention of the "R(A)" zone for high-density residential developments and will result in a reduction of housing supply; the applicant fails to demonstrate that the Site is not conducive to residential development; and approval of the application would set an undesirable precedent for similar applications in the same "R(A)" zone aggravating the shortfall in the supply of housing land.
- 7.3 The applicant has submitted written representation to support the review application, mainly responding to the MPC's rejection reasons and making reference to an application (A/H5/411) in Wan Chai which was approved with conditions by the MPC on 2.11.2018.
- 7.4 Since the consideration of the s.16 application by the MPC on 7.9.2018, there has been no material change in the planning circumstances of the case. While the applicant has provided responses to the MPC's rejection reasons, the planning considerations and assessments set out in paragraph 12 of **Annex A** should remain 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

- 7.5 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.
- 7.6 The Site is located in a mixed-use neighbourhood in close proximity to the commercial cluster along Wyndham Street and the wining and dining area of SOHO. The immediate neighbourhood of the Site is predominantly residential developments. While the proposed office development with shop and services/eating places on the lowest four floors is considered not incompatible with the surrounding developments, it is not fully in line with the planning intention of the "R(A)" zone. Moreover, redevelopment of the two existing residential buildings for the proposed commercial use would result in the loss of 73 flats.

TPB PG-No. 5

- 7.7 The applicant claims that the application must be given favourable consideration when all the planning criteria set out in TPB PG-No. 5 were met and that the

government's policy on housing does not form part of the assessment criteria under TPB PG-No. 5. It should be noted, as stated in the Note to TPB PG-No. 5, that TPB PG-No.5 is intended for general reference only. The decision to approve or reject an application rests entirely with the Board and will be based on individual merits and other specific considerations of each case. It is not the case that the Board must approve an application if the criteria as set out in TPB PG-No. 5 have been met and no government department has objection to the proposed development.

- 7.8 For the subject s.16 application, the planning intention of the Site as stated in the OZP and its Explanatory Statement (ES) is for high-density residential development. The approval of the application will result in the loss of a "R(A)" site, thus aggravating the shortfall in housing land supply. It is therefore entirely legitimate for the MPC to decide to reject the application after having given a proper balancing of all the relevant considerations; i.e. the planning intention as stated in the OZP, TPB PG-No.5 and the implications of such approval taking account of the relevant prevailing circumstances.
- 7.9 The MPC had therefore decided within the parameters of the OZP and had duly taken into account the planning intention of the Site stated in the OZP, the Notes of the OZP, the ES and the relevant TPB Guidelines.

Demand for Office Floor Space

- 7.10 On the applicant's claim that the MPC has not properly considered the planning gain of meeting the increasing demand for office floor space if the application was approved, it should be noted that the MPC did consider whether there were adequate justifications for the Site to be developed for commercial use rather than residential use. Having duly considered the compatibility of commercial development within the immediate residential neighbourhood and the possible traffic impacts, the MPC then concluded that the application should not be approved and the Site should be maintained for residential use.

'Plan Making Role of the Board'

- 7.11 On the applicant's claim that the MPC had confused its roles of 'plan-making' and 'planning application approval' when it took into account the government's housing policy in considering the s.16 planning application, it should be obvious that the MPC had not confused its roles as alleged. The MPC had fulfilled its role in considering the s.16 planning application as required and appropriate.
- 7.12 The MPC noted that the Site is currently zoned "R(A)" on the OZP, which is intended for high-density residential development. In discharging its duty in scrutinizing the planning application, the MPC duly took into consideration all relevant factors including the planning intention as stated on the OZP and such other material considerations including the site context, the TPB guidelines, latest planning circumstance as well as departmental comments and public comments when considering a planning application. For the subject s.16 application, the MPC decided, after having considered all relevant factors, that the Site should be retained for residential use instead of for office development.

Housing Land Supply

7.13 On the applicant's claim that the MPC was not provided with details on the government's policy on housing, it should be noted that since the 2013 Policy Address, the top priority for the Government was to tackle the housing supply shortage problem. In this regard, the Board including the MPC was well aware of the housing land supply shortage problem affecting Hong Kong and that a multi-pronged approach to increase and expedite housing land supply in the short-, medium- and long-term including means through various OZP amendments and planning applications was adopted. As shown in the minutes of the MPC meeting held on 7.6.2013 for a planning application for a proposed hotel development within the "R(A)" zone (Application No. A/K5/731), it was stated that "*the MPC ... agreed that, in view of the current shortage of housing land in meeting the pressing housing demand of the community, applications for non-residential uses including hotel and office in a predominantly residential area without any particular planning merit would in general not be supported ... despite the subject hotel proposal having no insurmountable technical problems*". In considering the s.16 application, the MPC noted that the applicant had failed to demonstrate that the Site was not conducive to residential development. In this regard, the applicant has not provided further information to demonstrate any strong justifications to use the Site not for residential development but for the proposed office development.

Similar Application (No. A/H5/411)

7.14 Reference is made by the applicant to Application No. A/H5/411 which the applicant claimed was similar in nature and site characteristics with the subject application in support of the Review application. The applicant noted that the MPC then approved Application No. A/H5/411 even after taking into account the implications on housing supply and the projected decrease in population of Wan Chai district. Nonetheless, each s.16 application is to be considered on its own individual merits. Furthermore, it should be noted that the site of Application No. A/H5/411 (i.e. the QRE site) and its nearby sites were the subject of a Land Use Review conducted by PlanD in 2008 which concluded that the concerned area possessed great potential to be redeveloped for commercial use as its location is adjacent to the CBD at Central and Admiralty. However, in view of the traffic concerns, wholesale rezoning of the area to commercial use was considered not appropriate and redevelopment was suggested to be considered by way of the planning permission system to ensure no traffic impact. Part of the QRE site was the subject of a previously approved planning application for office development. In addition, the QRE site is located next to two commercial buildings, while the Site is surrounded by residential buildings with shops on the ground floor only. Given the differences in site context and planning history, the Board may decide the Review application on its own merits and is not bound by the decision in respect of Application No. A/H5/411.

7.15 The applicant's claim that there was no record of any discussion on the housing supply situation or population by the MPC was not supported by the records of the discussion of application by the MPC. It is noted that the MPC paper for the subject s.16 application had indicated the loss of 73 flats in housing supply if the application was approved for redevelopment of the existing residential buildings to office use as proposed.

Undesirable Precedent

7.16 While the Board is bound to 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. As set out in paragraph 4 of the MPC Paper (**Annex A**), the Site together with its surrounding area along Arbuthnot Road and Glenealy were rezoned from “C/R” to “R(A)” in 2010 (**Plan R-3**). Having considered the predominant residential nature of the existing developments in the area, the planning intention at that time was to maintain the area for residential use. Hence, approval of the application would set an undesirable precedent for other residential sites in the same “R(A)” zone.

Public Comments

7.17 There are public comments objecting to the review application on various grounds including adverse traffic and environmental impacts caused, land use incompatibility and inaccessibility of the Site by public transport. There are also public comments supporting the application as the proposal could increase the office and retail space, compatible with the surroundings, and the rejection grounds for the s.16 application are unreasonable. For the adverse public comments, the assessment in paragraphs 7.4 to 7.16 above and the comments of the relevant government departments in paragraph 5 above 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 proposed office development is not in line with the planning intention of the “Residential (Group A)” (“R(A)”) zone which is for high-density residential developments. The approval of the application will result in a reduction of housing supply;
 - (b) the applicant fails to demonstrate that the Site is not conducive to residential development; and
 - (c) approval of the application will set an undesirable precedent for similar applications in the same “R(A)” zone. The cumulative effect of approving such 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 11.1.2023, 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 conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the provision of the car parking and loading/unloading facilities to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (b) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (c) 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; and
- (d) the provision of water supplies for fire fighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

- (a) to note the comments of DLO/HKW&S, LandsD regarding the submission of survey on the site area to the District Survey Office/Hong Kong for verification at building plan submission stage and the need to apply for licence to remove the non-offensive trades;
- (b) to note the comments of CBS/HKW, BD regarding the site coverage (SC) of the proposed development, the need to comply with the requirements in PNAP APP-132 and the SBD guidelines stipulated in PNAP APP-151 & 152, and the means of escape arrangement should comply with the Code of Practice for Fire Safety in Buildings 2011;
- (c) to note the comments of CE/HK&I, DSD regarding the hydraulic calculations in SIA and that the applicant should bear all costs and undertake improvement/upgrading works to the existing public sewerage systems for handling additional discharge due to the proposed development;
- (d) to note the comments of D of FS regarding the requirements of EVA as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Building 2011;
- (e) to note the comments of CA/CMD2, ArchSD that the greening ratio of the proposed development should be provided in accordance with PNAP APP-152; and
- (f) to note the comments of CTP/UD&L, PlanD that the applicant should explore and maximise the provision of greening to improve the landscape and visual amenity as far as practical.

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.

10. Attachments

Drawings R-1 to R-6	Floor plans and section plan
Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Location Plan on previous OZPs
Plans R-4 to R-6	Site Photos
Annex A	MPC Paper No. A/H3/438A
Annex B	Extract of minutes of the MPC meeting held on 7.9.2018
Annex C	Secretary of the Board's letter dated 21.9.2018
Annex D	Applicant's letter dated 12.10.2018 applying for a review of MPC's decision
Annex E	Applicant's letter dated 30.11.2018
Annex F	Public Comments on the review application

**TPB Paper No. 10510
For Consideration by the
Town Planning Board on 11.1.2019**

**REVIEW OF APPLICATION NO. A/H3/438
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**PROPOSED OFFICE, SHOP AND SERVICES USES/EATING PLACE
IN “RESIDENTIAL (GROUP A)” ZONE
3-6 GLENEALY, CENTRAL, HONG KONG**