

REVIEW OF APPLICATION NO. A/K18/331
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Minor Relaxation of Building Height Restriction from 3 to 4 Storeys to allow for
One Storey Basement for Two Car Parking Spaces and Ancillary Plant Rooms for the
Permitted House Development
at 7 Lincoln Road, Kowloon Tong, Kowloon**

1. Background

- 1.1 On 16.4.2019, the applicant, Gold Palace Limited represented by Kenneth To & Associates Limited, sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) for minor relaxation of building height (BH) restriction for developing a 4-storey house (including one storey of basement for car parking and ancillary plant room use) at the application site (the Site).
- 1.2 The Site falls within an area zoned “Residential (Group C) 1” (“R(C)1”) on the approved Kowloon Tong Outline Zoning Plan (OZP) No. S/K18/21 and subject to a maximum plot ratio (PR) of 0.6 and maximum BH of 3 storeys, or the PR and height of the existing building, whichever is the greater (**Plan R-1**). According to the Notes of the OZP, ‘House’ use is always permitted within the “R(C)1” zone; and minor relaxation of BH restriction to allow for 1 storey of basement for use as car park and/or ancillary plant room may be permitted on application to the Town Planning Board (the Board).
- 1.3 On 31.5.2019, the Metro Planning Committee (MPC) of the Board decided to reject the application for the following reasons:
 - (a) there are insufficient planning and design merits to justify the proposed relaxation of building height restriction; and
 - (b) the size of the proposed basement is excessive and there is insufficient information in the submission to demonstrate that the basement will not limit the area for at-grade planting.
- 1.4 For Members’ reference, the following documents are attached:
 - (a) MPC Paper No. A/K18/331 (Annex A)
 - (b) Extract of minutes of the MPC meeting held on 31.5.2019 (Annex B)
 - (c) Secretary of the Board’s letter dated 21.6.2019 (Annex C)

2. Application for Review

On 26.6.2019, the applicant, under s.17(1) of the Ordinance, submitted a letter enclosing a written representation (**Annex D**) to apply for a review of the MPC's decision to reject the application.

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the review application are detailed in the written representation (**Annex D**) and are summarised as follows:

- (a) for the s.17 review, the proposed scheme remained the same as that submitted under the s.16 stage;

In-Line with the Relevant Criteria for Consideration of Minor Relaxation of BH Restriction

- (b) the submitted scheme is an optimal design that responds to the assessment criteria as set out in the Explanatory Statement (ES) of the OZP for minor relaxation of BH restriction (paragraph 7.3 in **Annex A**), including:

Providing better streetscape / good quality street level public urban space

- (i) building bulk is minimised as far as possible by placing the ancillary plant rooms and car parking spaces at the basement, and allowing the provision of a larger greenery/landscaping area;
- (ii) set back of 6m from Lincoln Road and Cumberland Road in accordance with the non-building area (NBA) requirement for streetscape enhancement as stipulated under the Kowloon Tong Outline Development Plan (ODP);
- (iii) stepped terraced design adopted to break down the visual bulk of the proposed development as viewed from pedestrian level, and to allow the provision of curvilinear planter connecting the different floors, which soften the building mass and also enhance the amenity of the development as well as the neighbourhood;
- (iv) landscaping is proposed at grade with combination of trees, shrubs and ground cover within the Site, which will be visible to the public to enhance the amenity of the public realm (**Drawing R-6**);

Providing separation between buildings to enhance air and visual permeability

- (v) adopted a stepped terrace design with the upper part of the development further recessed from public roads (site coverage for G/F, 1/F and 2/F are about 32%, 21% and 18% respectively), hence air and visual permeability for pedestrians on both Cumberland Road and Lincoln Road will be improved;

Innovative Building Design

- (vi) an innovative building design with more free-form design approach, coupled with the stepped terrace and ample greenery, will add visual interest to the

neighbourhood and help keeping with the neighbourhood character as part of the Kowloon Tong Garden Estate (KTGE);

Minor Relaxation of Building Height is Necessary to Achieve the Various Design Merits

- (c) an alternative scheme without basement floor is submitted for illustration purpose (**Drawings R-1 to R-10**), the car parking spaces and loading/unloading (L/UL) bay as requested by the Commissioner for Transport (C for T) and the required maneuvering areas would have to be located at-grade and would occupy major portion of the open area. The area available for landscape treatment would be reduced significantly from 25% to 15%. In addition, the ancillary plant rooms would have to be provided at roof level and the absolute BH (including rooftop structures) would increase from 22.67mPD (under the proposed scheme with clean roof) to 25.87mPD (i.e. +3.2m);
- (d) without the basement floor, design flexibility would be significantly lessened and would not bring about any enhancement to townscape and amenity of the locality;

The Proposed Storey Height is Appropriate

- (e) the storey height for each floor ranges from 3.65m to maximum 4.5m with the storey height for 2/F ranging from 4.2m to 4.5m. These storey heights are in compliance with Practice Note for Authorized Persons (PNAP) APP-5 on Height of Storeys promulgated by Buildings Department, in which the maximum storey height allowed for house is 4.5m. Hence, the BH of the proposed house is appropriate and is not excessive;

The Proposed Basement Size is Not Excessive

- (f) the proposed basement size (i.e. about 294.391m²)¹ is devised based on the functional, building services, geotechnical and structural design requirements of the proposed house. The disposition and extent of the proposed basement are well justified;
- (g) the proposed basement size is similar to or smaller than that of the other approved similar applications within “R(C)1” zone on the OZP (i.e. ranging from 272m² to 586m²). The proposed house also includes a rainwater recycling plant room (for compliance with Sustainable Building Design Guidelines) which was not provided under other applications;

The Proposed Basement Will Not Limit the Area for At-grade Planting

- (h) the area immediately above the basement would be occupied by the building footprint while the remaining area would be a large lawn area with soil depth of about 600mm. Hence, the basement will not affect the area for at-grade planting (**Drawing R-6**);

The Proposed Basement is In-line with KTGE Concept

- (i) the proposed scheme with basement will provide ample greenery opportunities and the innovative design will add visual interest to the neighbourhood, which is in line with the KTGE concept; and

¹ The proposed basement includes 107.467m² of car parking spaces and maneuvering space; 70.403m² of ancillary plant rooms; 78.558m² of ramp; and 37.964m² of lift and circulation space. It has been revised from 265m² submitted at the s.16 stage after detailed calculation.

The Proposed Development is In-line with the Previous Decisions of the Board

- (j) 13 similar cases (involving 12 sites) to allow for one storey of basement in “R(C)1” zone under the Kowloon Tong OZP were approved by the Board. The approval of the current application is in line with the Board’s previous decisions.

4. The Section 16 Application

The Site and its Surrounding Areas

(Plans R-1 and R-2 and Site Photos on Plan R-3 and R-4)

- 4.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by the MPC are described in paragraph 6 of **Annex A**. There has been no material change of the situations since then.

Planning Intention

- 4.2 There has been no change in the planning intention of the “R(C)1” zone, that is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

Previous and Similar Applications

- 4.3 There has been no change in previous application covering the Site (paragraph 4 of **Annex A**) and similar applications within the “R(C)1” zone on the Kowloon Tong OZP (paragraph 5 of **Annex A** and **Annex E**).

5. Comments from Relevant Government Bureaux/Departments

- 5.1 Comments on the s.16 application made by relevant Government Bureaux/Departments are stated in paragraphs 8.1 and 8.2 of **Annex A**.
- 5.2 For the review application, the relevant Government Bureaux/Departments have been further consulted. Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) and Chief Architect/Central Management Division 2, Architectural Services Department (CA/CMD2, ArchSD) have further comments as follows:

Visual Aspect

5.2.1 Comments of CTP/UD&L, PlanD:

since the proposed minor relaxation of BH restriction only involved an additional basement floor, there is no actual increase in the bulk of the development (above ground) beyond what is permitted under the OZP. As documented in the applicant’s written representation, the proposed house took on a free-form building design approach coupled with stepped terrace and greenery would add visual interest to the neighbourhood. While a similar

curved shaped built-form will be maintained in the alternative scheme (i.e. without basement floor), the applicant's claim that the proposed scheme with the parking spaces and plant room accommodated underground would render a smaller building bulk with a stepped terrace design feature and a larger landscaping area and thus contributing to better streetscape seems reasonable.

5.2.2 Comments of CA/CMD2, ArchSD:

compared to the alternative scheme (without basement carpark), it appears that the current proposed scheme (with basement carpark) is a better option in terms of massing, height and visual impact.

5.3 The following Government departments have no further comments on the review application and maintain their previous views on the s.16 application as stated in paragraph 8.1 of **Annex A**. Their previous views are briefly recapitulated below:

Land Administration

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

- (a) the Site falls within NKIL No. 715, which has a site area of about 7,803ft². The lot is governed by a Government lease dated 8.5.1930 and the lease term has been extended up to 30.6.2047; and
- (b) if the application is approved by the Committee, the lot owner has to apply for consent for the proposed redevelopment. However, there is no guarantee that the consent shall be given, if given by LandsD in the capacity of a landlord, it shall be subject to such terms and conditions, including payment of premium and administrative fee as may be considered appropriate by LandsD at its sole discretion.

Building Matters

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

- (a) no in-principle objection to the proposal under Buildings Ordinance (BO) subject to submission of general building plans (GBPs) to demonstrate compliance of BO and Building Regulations;
- (b) applications for modification/exemption from Building (Planning) Regulation (B(P)R) 23(3)(a), i.e. for GFA concession, shall be submitted with the plans, with demonstration of compliance with the relevant acceptance criteria, requirements, prerequisites, cap on GFA concession, etc. in the relevant PNAPs;
- (c) in assessing whether the basement car park layout is reasonable and is not excessive for disregarding its area from GFA calculation under B(P)R 23(3)(b), the Building Authority (BA) make reference to the Hong Kong Planning Standard and Guidelines (HKPSG) and the advice of C for T. Any excessive car parking spaces and associated spaces (i.e. ramp, driveway, etc.) should be included in GFA calculation; and

- (d) justification shall be submitted for the proposed plant room types and sizes. The granting of GFA concessions for non-mandatory/non-essential plant room and services, etc. is subject to the compliance with the relevant acceptance criteria, requirements, prerequisites, cap on GFA concession, etc. in the relevant PNAPs.

Environment

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

has no objection to the application from air quality, noise and sewerage impact perspectives.

Traffic

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

- (a) has no adverse comment on the proposed provision of car parking spaces from traffic engineering point of view;
- (b) the applicant should provide a permanent L/UL bay instead of a temporary one within the Site. Such provision should also be shown on the general building plans; and
- (c) to address the above, should the application be approved, the following approval condition is suggested:

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

Landscape Aspect

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

it is noted from the applicant's submission that no existing tree is observed within the Site, as such, adverse landscape impact caused by the proposed minor relaxation of BH is not anticipated.

Fire Safety

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

- (a) no in-principle objection subject to fire service installations and water supplies for firefighting being provided to the satisfaction of D of FS; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans.

Electricity and Gas Safety

5.3.7 Comments of the Director of Electrical and Mechanical Services (DEMS)

- (a) the applicant shall liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations within/in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (b) the applicant should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line with and/or in the vicinity of the Site.

District Officer's Comments

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

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

5.4 The following Government departments maintain their previous views of having no objection to or no comment on the application:

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

6. Public Comments

- 6.1 The review application was published for public inspection on 5.7.2019. During the first three weeks of the statutory public inspection, which ended on 26.7.2019, no public comment was received.
- 6.2 At the s.16 stage of the application, no public comment was received.

7. Planning Considerations and Assessments

- 7.1 The subject application is for minor relaxation of BH restriction to facilitate the construction of one basement floor for accommodating two car parking spaces and some ancillary plant rooms in a proposed 4-storey house.
- 7.2 On 31.5.2019, MPC rejected the application for two reasons, including (a) insufficient planning and design merits to justify the proposed relaxation of BH restriction, and (b) the size of the proposed basement is excessive and insufficient information to demonstrate the basement will not limit the area for at-grade planting.
- 7.3 Under the current review application, the applicant has provided the following further elaborations regarding the proposal to address MPC's main concerns as detailed in paragraph 3 above and briefly highlighted below:
- (a) *Submission of an alternative scheme to justify the necessity of the proposed basement to achieve various planning and design merits:* without the basement floor for car parking spaces and ancillary plant room use, greening opportunities within the Site would be reduced and building bulk would be increased (Appendix 4 in **Annex D**). Design flexibility would be significantly lessened and the resulting development would not be compatible with the distinctiveness of KTGE; and
 - (b) *Scale of proposed basement:* the proposed basement is devised based on the functional, building services, geotechnical and structural design requirements of the proposed house. Its size is similar to or smaller than that of the similar applications previously approved by the Board, and will not affect area for at-grade planting.

Planning and Design Merits of Proposed Scheme with Basement

- 7.4 Considering that the Site is at a prominent corner site between Lincoln Road and Cumberland Road with a 6m NBA requirement for streetscape enhancement, the proposed scheme would allow landscape treatment along the site boundaries (especially at the south-western corner of the Site), which would bring about more improvements to townscape and amenity of the locality as compared to an alternative scheme without basement.
- 7.5 The proposed scheme with a clean roof form would also be less bulky and with lower BH (**Drawings R-7 to R-10**). CTP/UD&L, PlanD advised that while a similar curvilinear building form would be maintained in the alternative scheme, the applicant's claim that the proposed scheme with basement floor would render a smaller building bulk with a stepped terrace design feature and larger landscaping area thus contributing to better streetscape is reasonable. CA/CMD2, ArchSD also advised that the proposed scheme is a better design option in terms of massing, height and visual appeal.

Basement Size

- 7.6 As summarised in **Annex E**, the 13 approved similar applications in the Kowloon Tong area involved proposed basement sizes ranging from 144m² to 653m² / 26% to 91% of the total GFA of each development. The proposed basement size under the

current application (i.e. 294m² / 68% of total GFA) is in the mid-range of those in approved similar applications. CBS/K, BD has no in-principle objection to the proposal and advised that the granting of GFA concession will be considered during GBP stage. In this regard, an advisory clause is suggested in **Annex F** to advise the applicant if the area of GFA concession assumed under application is not granted by the BA with the resultant PR exceeding the OZP restriction, a fresh application to the Board would be required.

At-grade Planting Area

- 7.7 In addressing Members' concern, the applicant demonstrated that the basement structure will not affect the area for at-grade planting and in contrary the at-grade planting area would be reduced significantly from 25% to 15% under the alternative scheme. As seen in **Drawings R-1** and **R-2**, although the proposed basement structure extends beyond the building line to the northern and western portions of the Site, landscape treatment is proposed at grade thereat (i.e. immediately above the said basement area and at non-driveway areas) with combination of trees, shrubs and ground cover. Palms, broadleaf species and evergreen species are proposed along the site boundary fronting both roads which will be visible to the public to enhance the amenity of the public realm (**Drawing R-6**). Taking into account the above, it is considered that the applicant has demonstrated effort in maximising greening opportunities.

Criteria for Minor Relaxation of BH

- 7.8 Taking into account the above, it is considered that the rejection grounds have been addressed under the current s.17 review. As such, we maintain our view at the s.16 stage that the proposal is considered in line with the criteria as set out in the ES of the OZP for the addition of basement storey in "R(C)1" zone and minor relaxation of BH restriction (as outlined in paragraphs 7.2 and 7.3 in **Annex A**), including no adverse impacts on existing trees or deterioration on the distinctiveness of the area as a garden estate, providing better streetscape, providing separation between buildings to enhance air and visual permeability, innovative design and no adverse visual impacts.

Overall Planning Assessment

- 7.9 With regard to planning intention, compatibility with the surroundings, visual impact and other technical considerations, the planning assessment as detailed in paragraphs 10.3 to 10.5 in **Annex A** is still valid.

8. Planning Department's Views

- 8.1 Based on the assessment in paragraph 7 and given that there has been no change in the planning circumstances since the consideration of the subject application by the MPC on 31.5.2019, the Planning Department maintains its previous view of having no objection to the application.
- 8.2 Should the Board decide to approve the application on review, it is suggested that the permission shall be valid until 13.9.2023, 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 approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the design and provision of vehicular access, car parking spaces and loading/unloading facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (b) the provision of 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

The suggested advisory clauses are attached at **Annex F**.

8.3 Alternatively, should the Board decide to reject the application on review, the following reasons are suggested for Members' reference:

- (a) there are insufficient planning and design merits to justify the proposed relaxation of building height restriction; and
- (b) the size of the proposed basement is considered excessive and there is insufficient information in the submission to demonstrate that the basement will not limit the area for at-grade planting.

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.

10. Attachments

Annex A	MPC Paper No. A/K18/331
Annex B	Extract of minutes of the MPC meeting held on 31.5.2019
Annex C	Secretary of the Board's letter dated 21.6.2019
Annex D	Applicant's letter applying for a review of MPC's decision and written representation received on 26.6.2019
Annex E	Similar s.16 Applications for Minor Relaxation of BH Restriction within "R(C)1" Zone on the Kowloon Tong OZP
Annex F	Suggested Advisory Clauses
Drawings R-1 to R-10	Plans submitted by applicant

Plan R-1	Location Plan
Plan R-2	Site Plan
Plans R-3 to R-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2019**