

**REVIEW OF APPLICATION NO. A/K5/796**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Office Building with Shop and Services  
in “Residential (Group A) 6” Zone  
269 Lai Chi Kok Road, Kowloon**

**1. Background**

- 1.1 On 5.6.2018, the applicant, YEUNG Siu Ha, represented by Thomas Tsang Surveyors Limited, sought planning permission under s.16 of the Town Planning Ordinance (the Ordinance) for a proposed 11-storey office building with shop and services on the lowest three floors at 269 Lai Chi Kok Road, Kowloon (the Site).
- 1.2 The Site falls within an area zoned “Residential (Group A) 6” (“R(A)6”) on the approved Cheung Sha Wan Outline Zoning Plan No. S/K5/37 (the OZP) (**Plan R-1**). According to the Notes of the OZP for the “R(A)” zone, ‘Shop and Services’ is always permitted on the lowest three floors of a building, taken to include basements, or in the purpose-designed non-residential portion of an existing building, both excluding floors containing wholly or mainly car parking, loading/unloading (L/UL) bays and/or plant room. However, ‘Office’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.3 The proposal involves development of an office building with shop and services uses on G/F to 2/F, and all the above floors (i.e. 3/F to 10/F) for office uses. The key development parameters and floor uses of the proposed development are as follows:

<b>Proposed Development Parameters</b>	
Site Area	102.84 m <sup>2</sup>
Total Gross Floor Area (GFA)	924.42 m <sup>2</sup>
Total Plot Ratio (PR)	8.98
Site Coverage	
• G/F	100%
• 1/F to 2/F	93%
• 3/F to 10/F	77%
No. of Storeys	11 (no basement)
Building Height (BH)	34.5mPD (main roof)
Parking and L/UL Provision	Nil
<b>Main Uses by Floor</b>	
G/F – 2/F	Shop and Services
3/F – 10/F	Offices

1.4 On 3.8.2018, the Metro Planning Committee (the MPC) of the Board decided to reject the application on the following grounds:

- (a) the application is not in line with the planning intention of the “R(A)6” zone which is for high-density residential developments. The Site is located in a predominant residential neighbourhood. Given the current shortfall in housing supply, the Site should be developed for its zoned use. The proposed office building with shop and services would result in reduction of sites for residential developments, which would affect the supply of housing land in meeting the pressing housing demand over the territory;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 5 for Application for Office Development in “R(A)” zone under Section 16 of the Town Planning Ordinance (TPB PG-No.5) as the application site is considered too small for a properly designed office building, the proposed development is considered incompatible with the surroundings which is a predominantly residential area and the submission fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and
- (c) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would aggravate the shortfall in the supply of housing land.

1.5 For Members’ reference, the following documents are attached:

- (a) MPC Paper No. A/K5/796 (Annex A)
- (b) Extract of minutes of the MPC meeting held on 3.8.2018 (Annex B)
- (c) Secretary of the Board’s letter dated 17.8.2018 (Annex C)

## 2. Application for Review

On 5.9.2018, the applicant applied, under s.17(1) of the Ordinance, for a review of the MPC’s decision to reject the application (**Annex D**). The applicant has not submitted any written representation in support of the review.

## 3. The Section 16 Application

The Site and Its Surrounding Areas (**Plans R-1 and R-2** and site photos on **Plans R-3 and R-4**)

3.1 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 7 of **Annex A**. There has been no material change of the situation since then.

3.2 The Site is:

- (a) currently vacant with temporary structures;
- (b) abutting Lai Chi Kok Road with a service lane at the rear; and
- (c) flanked by residential buildings in its immediate surroundings.

3.3 The surrounding areas have the following characteristics:

- (a) predominantly residential buildings with commercial uses on the lower floors except one commercial development located on the opposite side of Lai Chi Kok Road (No. 292 Lai Chi Kok Road); and
- (b) the Site is easily accessible by various modes of public transport in its vicinity, with bus stops on Lai Chi Kok Road and MTR Sham Shui Po Station within walking distance.

Planning Intention

- 3.4 There has been no change of the planning intention of the “R(A)” zone, which is 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.

Previous Applications

- 3.5 There is no previous application at the Site.

Similar Applications

- 3.6 After the MPC’s consideration of the s.16 application, there is a similar application No. A/K5/782 for proposed shop and services, eating place, office and school (cookery-related) at 58 Castle Peak Road (**Plan R-1**) zoned “R(A)” on the OZP approved with conditions by the MPC on 21.9.2018.
- 3.7 Taking into account the aforesaid application, there are 30 similar applications for office development with or without shops/eating places/retail uses at the lower floors within the “R(A)” zone on the OZP considered by the MPC since the promulgation of the TPB PG-No.5 in December 1990 (**Plan R-1**). All of them except application No. A/K5/782 were considered by the MPC before the announcement of 2013 Policy Address which stated that the top priority of the Government was to tackle the housing problem and supply shortage lied at the heart of the prevailing housing problem. Nine of the 30 cases were approved with conditions and the remaining 21 cases were rejected.
- 3.8 Among the approved cases, two applications (Nos. A/K5/149 and 174) were completed. Six of them have not been implemented and the planning approvals have lapsed. The remaining one (No. A/K5/782) was recently approved as mentioned in paragraph 3.6 above.

3.9 For the 21 rejected applications, the main rejection reasons were on small site area, no/insufficient provision of internal transport facilities, incompatible with the surroundings, not being in line with the planning intention of the area and setting an undesirable precedent for similar applications within the residential area.

3.10 Details of the similar applications are summarized at **Annex E**.

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

4.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 9 of **Annex A**.

4.2 For the review application, the following Government departments have been consulted. Given that there is no further information submitted for the review application, they maintain their previous views/comments on the s.16 application which are recapitulated as follows:

##### **Land Administration**

4.2.1 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) No objection to the application.
- (b) The Site covers NKIL No. 412 ("NKIL 412"). NKIL 412 is governed by Government Lease dated 24.4.1923, which is virtually unrestricted except the standard non-offensive trades clause. The lot area under the Government Lease is 1,107ft<sup>2</sup> (about).
- (c) It is unclear whether the proposed shop and service uses on the lowest three floors include catering services such as restaurant and bar. As the subject lease contains an offensive trade clause, any offensive trades such as catering services are prohibited in the lot unless such lease restriction is removed by way of a licence or modification letter. However, there is no guarantee that the licence or modification application, if submitted, will be approved. Such application, if received by LandsD, will be considered by LandsD acting in the capacity as the landlord at its sole discretion. In the event any such application is approved, it would be subject to such terms and conditions including, among others, the payment of licence fee/premium and administrative fee as may be imposed by LandsD.
- (d) Boundary details and detailed design of the development will be scrutinized at later stage and at the building plan submission stage.

**Building Matters**

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

No objection to the application subject to the followings:

- (a) All building works/ change in use are subject to compliance with the Buildings Ordinance (BO).
- (b) The applicant is advised to appoint an Authorized Person to submit building plans for the proposed new development to demonstrate compliance with the BO, in particular :
  - (i) adequate means of escape should be provided to the premises in accordance with Building (Planning) Regulations (B(P)R) 41(1) and the Code of Practice for Fire Safety in Buildings 2011 (FS Code);
  - (ii) emergency vehicular access should be provided in accordance with B(P)R 41D and the FS Code;
  - (iii) access and facilities for persons with a disability including accessible toilet should be provided in accordance with B(P)R 72 and Design Manual: Barrier Free Access 2008; and
  - (iv) natural lighting and ventilation should be provided to the proposed office development in accordance with B(P)R 30 and 31.
- (c) Regarding the proposed layout of the development, BD's comments are as follows:
  - (i) protected lobby to escape staircase shall be provided in accordance with Clause B10.4 of FS Code;
  - (ii) fireman's lift lobby shall be designed and compliance with Clause D11 of FS Code; and
  - (iii) no comment under the BO regarding the "minimum core areas" of the proposed development.
- (d) Detailed comments under the BO can only be provided at the building plan submission / licence application stage.
- (e) Regarding the issue on nuisance (e.g. sunlight, ventilation) on the nearby buildings caused by the proposed development, B(P)R has set out relevant requirements that no building shall reduce the quantity of light and air available to any other buildings below the requirements

under B(P)R.

### **Traffic**

#### 4.2.3 Comments of the Commissioner for Transport (C for T):

C for T cannot offer support to the application as no traffic impact assessment (TIA) including L/UL arrangements has been submitted to demonstrate no adverse traffic impact from the proposal.

### **Fire Safety**

#### 4.2.4 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 his department.
- (b) Detailed fire safety requirement will be formulated upon receipt of formal submission of general building plans.
- (c) The arrangement of emergency vehicular access shall comply with Section 6, Part D of FS Code which is administered by BD.

### **Environment**

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

- (a) Office developments are normally provided with central air conditioning system and the applicant/Authorized Persons should be able to select a proper location for fresh air intake during the detailed design stage to avoid exposing future occupants under unacceptable environmental nuisances/impact.
- (b) If the application is approved, the following approval conditions should be imposed:
  - (i) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
  - (ii) the implementation of the local sewerage upgrading / sewerage connection works identified in the SIA in planning condition (i) above to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

### **Urban Design and Landscape**

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

- (a) Significant visual impact is not anticipated.
- (b) The Site abuts on Lai Chi Kok Road alongside a row of low-rise composite buildings to its immediate northwest and southeast with a BH of about 25mPD to 42mPD (6-12 storeys). Two medium-rise composite buildings with BH of about 50mPD are located within the same street block. He has no particular comments on the proposed 11-storey office building with a BH of 34.5m and a PR of 8.98.

### **Electrical and Mechanical Services**

4.2.7 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) No particular comment on the application from electricity supply safety aspect.
- (b) However, in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under this application 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 within and/or in the vicinity of the Site.
- (c) The parties concerned should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **District Officer’s Comments**

4.2.8 Comments of the District Officer (Sham Shui Po), Home Affairs Department (DO(SSP), HAD):

- (a) No comment on the application.
- (b) Considering the proposed site coverage, scale and area (102.84m<sup>2</sup>), such small office building would not cause huge impact on the traffic. However, the Site falls between high and densely packed buildings, which may cause nuisance (e.g. sunlight, ventilation) to the nearby residents.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD);
- (d) Commissioner of Police (C of P); and
- (e) Director of Food and Environmental Hygiene (DFEH).

## **5. Public Comment Received During the Statutory Publication Period**

On 14.9.2018, the application was published for public inspection. During the three-week statutory public inspection period, which ended on 5.10.2018, one public comment submitted by an individual was received (**Annex F**), objecting the review application mainly on grounds of small site area, no/insufficient provision of internal transport facilities, incompatibility with the surroundings, being not in line with the planning intention and setting an undesirable precedent for similar applications.

## **6. Planning Considerations and Assessments**

6.1 The subject application is for a review of the MPC decision on 3.8.2018 to reject the s.16 application for a proposed 11-storey office building with shop and services on lower floors at the Site. The rejection reasons are mainly that the proposed development is not in line with the planning intention of the “R(A)6” zone for high-density residential developments; not complying with the TPB PG-No.5; and approval of the application would set an undesirable precedent for similar applications in the area aggravating the shortfall in the supply of housing land.

6.2 The applicant has not submitted any further written representation to support the review application. There has been no material change in the planning circumstances of the case since the consideration of the s.16 application by the MPC on 3.8.2018. Hence, the planning considerations and assessments as set out in paragraph 11 of **Annex A** remain valid and there is no strong justification to warrant a departure from the MPC’s decision of rejecting the application. The planning considerations and assessments are recapitulated as follows:

### **Planning Intention and Local Character**

- (a) The subject application is for a proposed office building with shop and services on lower floors within “R(A)6” zone, which is intended primarily for high-density residential developments. The Site is located within a predominantly residential neighbourhood with high-density developments, except one commercial development located at the opposite side of Lai Chi Kok Road (**Plans R-2 and R-3**). The proposed office development is considered incompatible with the surrounding developments in land use term, which is predominantly a residential area. The proposed development is also not in line with the planning intention of the “R(A)6” zone, which is



intended primarily for high-density residential developments.

#### Housing Land Supply

- (b) The 2013 Policy Address stated that the top priority of the Government was to tackle the housing problem and supply shortage lied at the heart of the prevailing housing problem, and the Government would undertake measures to increase housing land supply. Due to shortage of housing land, the Site should be retained for residential use unless with very strong justifications.
- (c) The proposed development would result in reduction of sites available for residential developments and the supply of housing land in meeting the pressing housing demand over the territory. The applicant does not provide strong justification to demonstrate that the Site is very conducive for office development or the proposed development would meet a specific planning objective.

#### Town Planning Board Guidelines

- (d) The Site with an area of about 102.84m<sup>2</sup> is small in terms of site area. Although the Site is located at an easily accessible location well-served by public transport, the proposed development does not comply with the relevant assessment criteria specified in the TPB PG-No.5 in that the Site is considered too small for a properly designed office building, the proposed development is considered incompatible with the surrounding which is a predominantly residential area, and C for T does not support the proposed development from traffic perspective.

#### Technical Aspects

- (e) On the traffic aspect, C for T advises that they cannot support the application as the applicant has not submitted any TIA or sufficient information to demonstrate no adverse traffic impact from the proposed office development.
- (f) Other departments including CE/MS of DSD, DEMS, DEP, D of FS, CHE/K of HyD, CE/C of WSD and CTP/UD&L of PlanD have no objection to or adverse comment on the application.

#### Similar Applications and Undesirable Precedent

- (g) Among the similar applications for office development with or without shops/eating places/retail uses on lower floors considered by the MPC since 1990, most of them were rejected mainly on the reasons of small site area, no/insufficient provision of internal transport facilities, incompatible with the surroundings, not being in line with the planning intention of the area and setting an undesirable precedent for similar applications within the residential area.

- (h) For the approved applications, all of them were approved in or before 1995, except one (No. A/K5/782) as mentioned in paragraph 3.6 above. This application was for the redevelopment of an existing non-domestic building (the building of the Garden Company, Limited) which is zoned “R(A)7” on the OZP. Having considered that the proposed redevelopment and development intensity were not incompatible with the surrounding development in land use term, no adverse impacts was anticipated, the proposal generally complied with the relevant TPB PG-No.5, as well as the special circumstances of the unique site history that the site had long been developed for non-domestic use and two planning applications for commercial/office development at the site were approved in 1995, the approval would not set an undesirable precedent for similar applications in the area, and the application was approved with conditions by the MPC on 21.9.2018.
- (i) As there is no strong justification or planning merit submitted in the subject review application to substantiate the case, approval of the subject application would set an undesirable precedent for similar applications for office development in the area, and the cumulative effect of approving such applications would aggravate the shortfall in housing land supply and jeopardise the planning intention of the “R(A)” zone.

6.3 Regarding the public comment received, the planning assessments above and departmental comments in paragraph 4 above are relevant.

## **7. Planning Department’s Views**

7.1 Based on the assessments made in paragraph 6, the Planning Department maintains its previous view of not supporting the application for the following reasons:

- (a) the application is not in line with the planning intention of the “Residential (Group A) 6” zone which is for high-density residential developments. The Site is located in a predominant residential neighbourhood. Given the current shortfall in housing supply, the Site should be developed for its zoned use. The proposed office building with shop and services would result in reduction of sites for residential developments, which would affect the supply of housing land in meeting the pressing housing demand over the territory;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 5 for Application for Office Development in Residential (Group A) Zone under Section 16 of the Town Planning Ordinance as the application site is considered too small for a properly designed office building, the proposed development is considered incompatible with the surroundings which is a predominantly residential area and the submission fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas; and

- (c) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would aggravate the shortfall in the supply of housing land.
- 7.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 23.11.2022, 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 also suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (b) the submission of a Traffic Impact Assessment including loading/unloading arrangements and implementation of the proposed improvement measures identified therein to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission of a Sewerage Impact Assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (d) the implementation of the local sewerage upgrading/sewerage connection works identified in condition (c) above to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Annex G**.

**8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of the MPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 8.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission.

## 9. Attachments

<b>Annex A</b>	MPC Paper No. A/K5/796
<b>Annex B</b>	Extract of minutes of the MPC meeting held on 3.8.2018
<b>Annex C</b>	Secretary of the Board's letter dated 17.8.2018
<b>Annex D</b>	Applicant's letter dated 5.9.2018 applying for a review of the MPC's decision
<b>Annex E</b>	Similar s.16 applications for 'Office' use within "R(A)" Zone on Cheung Sha Wan OZP since December 1990
<b>Annex F</b>	Public comment received on the review application
<b>Annex G</b>	Recommended advisory clauses
<b>Plan R-1</b>	Location plan
<b>Plan R-2</b>	Site plan
<b>Plan R-3 and R-4</b>	Site photos

**PLANNING DEPARTMENT  
NOVEMBER 2018**