

PART VIII - REVIEW OF PLANNING APPLICATIONS

Review of Decisions Made under Section 16 or 16A

8.1 Where an application made under section 16 or 16A has been approved with conditions or refused, the applicant may apply for a review of the Board's/PC's decision under section 17 of the Ordinance. The applicant must set out the grounds for the review when making a review application under section 17(1) of the Ordinance. If no ground is provided in the review application, the Board must refuse the application. All section 17 reviews shall be considered by the Board within three months from the date of receipt of the review applications. In considering a section 17 review, the Board will make reference to Government departments' views. In respect of a section 17 review of decision made under section 16, the Board will also have regard to public comments received during the first three weeks of the public inspection period of the review application.

8.2 On receipt of an application for a section 17 review, the Secy/Board will acknowledge receipt of the review application and inform the applicant of the tentative date of the hearing for the review, as well as making the application available for public inspection. The applicant may attend before the Board and be heard. The Secy/Board will ensure that reasonable notice is given to the applicant of the hearing date (normally four weeks in advance). The applicant will be required to confirm attendance to the hearing within two weeks. Seven days before the hearing, the applicant will receive the agenda for the hearing and a copy of the relevant Paper.

8.3 In considering a review, the Board will only consider the original application in the light of any further written and/or oral representations. A revised development proposal materially different from the original proposal would not be considered and must be re-submitted in the form of a fresh s.16 application.

Proceedings of Review Hearing

8.4 The Ordinance has not specified the steps and manner for conducting the review of planning applications. The following procedure has been adopted:-

- (a) the applicant as well as the representatives of the Planning Department and other Government departments, if any, will be invited to the meeting at the same time;
- (b) the chairman of the meeting will briefly explain the review hearing procedure;
- (c) the chairman will then invite the representative of the Planning Department to present the background of the application;
- (d) the applicant will then be invited to elaborate on the case;
- (e) the chairman will then invite the representatives of the Planning Department and other Government departments, if any, and the applicant to answer any questions from Members;

- (f) should the representatives of Government departments wish to respond to statements made by the applicant or to clarify their own statements, they should do so with the permission of the chairman and in the presence of the applicant. The applicant would also have an opportunity to respond to statements made by Government representatives as directed by the chairman; and
- (g) the representatives of the Planning Department and other Government departments, if any, and the applicant will then leave the meeting. The Board will deliberate on the review application in private.

Submission of Further Information

8.5 Further information may be submitted by the applicant within the specified periods published in the Gazette, i.e. within two months after the day of the receipt of the application and within two months after the day on which the Board makes a decision to defer its decision on the application in order for the applicant to give further information. The Secy/Board will decide if such further information can be accepted for inclusion into the application. Further information which will result in a material change of the nature of the application will not be accepted. Further information accepted for inclusion into the application by the Secy/Board will be made available for public inspection. In respect of a review of decision made under section 16, unless exempted by the Secy/Board, the further information will be published for three weeks for public comments. Subject to paragraph 8.6 below, the Secy/Board will re-arrange a date for the hearing, which shall be not more than three months from the date of receipt of the further information. If the further information submitted is exempted from the publication requirement, then the original date of the hearing will be adhered to. To comply with the Ordinance and avoid unreasonable delay in processing the application, the Board must refuse to accept further information submitted not falling within the specified periods. Details on the submission of further information are contained in the TPB Guidelines on Submission of Further Information in relation to Applications for Amendment of Plan, Planning Permission, and Review made under the Town Planning Ordinance.

Adjournment of Hearing/Request for Deferment

8.6 If the applicant fails to attend the hearing, the Board may proceed with the consideration of the review in his/her absence or, if appropriate, adjourn the hearing to another date. On some occasions, the applicant may request for a deferment of the hearing. According to the TPB Guidelines for Deferment of Decision on Representations, Further Representations and Applications made under the Town Planning Ordinance, each request for deferment will be considered on its merit. In considering a request for deferment, the Board will take into account all relevant factors and whether the right or interest of other concerned parties will be affected and may specify a maximum deferment period as it deems appropriate. If there are reasonable grounds for deferment of decision on the application for the applicant to submit further information, the applicant will be given two months to do so. The case will then be re-submitted to the Board for consideration on a date after the specified period for submission of further information but before the expiry of the statutory time limit. The Secy/Board has the discretion to schedule the meeting date for consideration of the application as soon as practicable before the expiry of the statutory time limit, with a view to expediting the processing of applications.

8.7 If the applicant has reasonable grounds to support his request and informs the Secy/Board in advance before the issue of agenda and the relevant Paper, a Paper will be prepared by the Planning Department to seek the Board's agreement to the request. However, if the request is received after the issue of the agenda and relevant Paper, the representative of the Planning Department will report the case at the scheduled meeting. For request for deferment without reasonable ground, it will be submitted together with the relevant Paper on the application to the Board for consideration, regardless whether the request is received before or after the issue of agenda. Should the Board consider that a deferment is not warranted, it may proceed to make a decision on the review or adjourn the review hearing to the next scheduled meeting. For the latter case, the applicant will be invited to attend the next scheduled meeting.

Decision of the Board

8.8 Upon review of a decision of the Board/PC, the Board may approve with or without condition(s), or refuse to approve the application. The applicant will be notified in writing of the Board's decision, including the approval conditions, if any, or the reasons for refusing the application. If the applicant is aggrieved by the decision of the Board, he/she may, within 60 days of being formally notified of the decision, lodge an appeal by completing the form for Notice of Appeal under section 17B which may be obtained from the Secretary, Town Planning Appeal Board on 17/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. The completed form should be submitted to the Secretary, Town Planning Appeal Board and copied to the Secy/Board.

TOWN PLANNING BOARD
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