

**Minutes of 1320th Meeting of the
Town Planning Board held on 14.6.2024**

Present

Permanent Secretary for Development
(Planning and Lands)
Ms Doris P.L. Ho

Chairperson

Mr Stephen L.H. Liu

Vice-chairperson

Ms Sandy H.Y. Wong

Mr Stanley T.S. Choi

Mr K.W. Leung

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Professor Roger C.K. Chan

Mr Ben S.S. Lui

Mr Timothy K.W. Ma

Professor Bernadette W.S. Tsui

Ms Kelly Y.S. Chan

Dr C.M. Cheng

Mr Daniel K.W. Chung

Dr Tony C.M. Ip

Mr Ryan M.K. Ip

Mr Rocky L.K. Poon

Professor B.S. Tang

Professor Simon K.L. Wong

Mr Simon Y.S. Wong

Mr Derrick S.M. Yip

Chief Traffic Engineer/Kowloon

Transport Department

Mr Vico P. Cheung

Assistant Director (Environmental Assessment)

Environmental Protection Department

Mr Terence S.W. Tsang

Deputy Director/General

Lands Department

Ms Jane K.C. Choi

Director of Planning

Mr Ivan M.K. Chung

Deputy Director of Planning/District

Ms Donna Y.P. Tam

Secretary

Absent with Apologies

Mr Daniel K.S. Lau

Dr Venus Y.H. Lun

Mrs Vivian K.F. Cheung

Mr Vincent K.Y. Ho

Chief Engineer (Works)

Home Affairs Department

Mr Paul Y.K. Au

In Attendance

Assistant Director of Planning/Board
Ms Caroline T.Y. Tang

Chief Town Planner/Town Planning Board
Ms W.H. Ho

Senior Town Planner/Town Planning Board
Mr L.K. Wong

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1319th Meeting

[The item was conducted in Cantonese.]

1. The Secretary reported that subsequent to circulation of the draft minutes of the 1319th meeting to Members, an amendment to paragraph 4 incorporating a Member's comment as shown on the visualiser was proposed. Members agreed that the minutes were confirmed with incorporation of the said amendment.

Agenda Item 2

[Open Meeting]

Matters Arising

[This item was conducted in Cantonese.]

(i) Approval of Draft Outline Zoning Plan and Draft Urban Renewal Authority Development Scheme Plans

2. The Secretary reported that on 14.5.2024, the Chief Executive in Council approved the draft Sha Tin Outline Zoning Plan (OZP) (renumbered as S/ST/38), the draft Urban Renewal Authority (URA) Ming Lun Street/Ma Tau Kok Road Development Scheme Plan (DSP) (renumbered as S/K22/URA1/2) and the draft URA To Kwa Wan Road/ Ma Tau Kok Road DSP (renumbered as S/K22/URA2/2) under section 9(1)(a) of the Town Planning Ordinance. The approval of the OZP and DSPs was notified in the Gazette on 7.6.2024.

(ii) Hearing Arrangement for Consideration of Representation on Draft Outline Zoning Plan

3. The Secretary reported that the item was to seek Members' agreement on the hearing arrangement for consideration of representation on the draft Mong Kok Outline Zoning Plan No. S/K3/37 (the draft OZP). The Secretary briefly introduced that on 22.3.2024, the

draft OZP was exhibited for public inspection under section 5 of the Town Planning Ordinance. During the two-month exhibition period, one valid representation was received. The hearing of the representation was recommended to be considered by the full Town Planning Board (the full Board). To ensure efficiency of the hearing, a maximum of 10 minutes presentation time would be allotted to the representer in the hearing session. Consideration of the representation by the full Board was tentatively scheduled for July/August 2024.

4. The Board agreed to the hearing arrangement in paragraph 3 above.

[Messrs Ryan M.K. Ip and Simon Y.S. Wong joined the meeting at this point.]

(iii) Town Planning Appeal Decisions Received

(1) Town Planning Appeal No. 5 of 2022

Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years and Filling of Land in “Green Belt” Zone, Lots 579 RP, 580, 581, 582, 583, 584 (Part) and 590 in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
Application No. A/YL-LFS/411

5. The Secretary reported that the subject appeal was against the Town Planning Board’s decision to reject on review an application (No. A/YL-LFS/411) for temporary warehouse for storage of construction materials for a period of three years and filling of land at the application site (the Site) zoned “Green Belt” (“GB”) on the Lau Fau Shan Outline Zoning Plan.

6. The appeal was heard by the Town Planning Appeal Board (TPAB) on 2.11.2023 and 16.11.2023. On 3.5.2024, the TPAB dismissed the appeal for reasons mainly including:

- (a) for the “existing use” claim, TPAB considered that there was no evidence adduced to prove the alleged actual use and/or the structures on the Site existed immediately before 17.8.1990 (i.e. gazettal of the Interim Development Permission Area Plan (IDPA Plan)) despite that the Site had been used for pig farming cum storage of construction materials since the 1990s as claimed by the Appellant. Indeed, the use (warehouse) at the Site

under application had been commenced and undertaken after the gazette of the IDPA Plan without planning permission;

- (b) regarding the claim that the landscape and ecological values of the Site were not significant and approval of the application would not set an undesirable precedent, TPAB held the view that “there was no tree and vegetation within the Site” was due to the Appellant’s previous unpermitted destruction of vegetation on and formation of the Site. Allowing such unlawful action would encourage similar wrongful actions in the area, the cumulative impact of which would result in further degradation of the landscape character and quality of the surrounding environment and undermine the planning intention of the “GB” zone;
- (c) TPAB did not consider that there were exceptional circumstances and strong planning grounds warranting departure from the general presumption against development in the “GB” zone according to Criteria 2(a) and 2(b) of the main planning criteria set out in the Town Planning Board Guidelines No. 10. No objection from certain government departments could not be regarded as an exceptional circumstance or a strong planning ground. In fact, the Director of Environmental Protection did not support the application as the applied use involved heavy vehicles and environmental nuisances were expected;
- (d) the Appellant claimed that the applied use was not incompatible with the surrounding area as there were a number of warehouses and open storages along Deep Bay Road. TPAB considered that the warehouse use at the Site was not compatible with the “GB” zone and the surrounding environment. While there were warehouses, recycling yard and a vehicle park in the vicinity, they were suspected unauthorized developments subject to planning enforcement actions and should not have existed; and
- (e) TPAB did not consider that shortage of suitable land for open storages and warehouses was a relevant planning consideration which could override the general presumption against development within the “GB” zone or constitute exceptional circumstances or strong planning grounds for a departure from

such presumption.

7. Members noted the decision of TPAB.

(2) Town Planning Appeal No. 6 of 2022

Temporary Warehouse (Storage of Grain, Cooking Oil and Grocery) for a Period of 3 Years in “Agriculture” Zone, Lots 626 (Part), 627 (Part), 629 (Part), 630 (Part), 631 (Part), 632, 634 (Part) in D.D. 23 and Adjoining Government Land, Ting Kok, Tai Po, New Territories

Application No. A/ NE-TK/745

8. The Secretary reported that the subject appeal was against the Town Planning Board’s decision to reject on review an application (No. A/NE-TK/745) for a temporary warehouse (storage of grain, cooking oil and grocery) for a period of three years at the application site (the Site), which fell within an area zoned “Agriculture” on the approved Ting Kok Outline Zoning Plan (OZP).

9. The appeal was heard by the Town Planning Appeal Board (TPAB) on 4.12.2023. On 15.12.2023, the TPAB unanimously decided to dismiss the appeal for reasons mainly including:

- (a) under the section 16 planning statement, the section 17 review supplementary statement, the grounds of appeal and the statement of appeal, the Appellant argued that while a large part of the operation was an “existing use” (“EU”) before the gazette of the Interim Development Permission Area (IDPA) Plan which should be tolerated, the operation had expanded over the years and covered a larger area with bigger structures to meet operational needs. The Site was already formed, cleared of vegetation, and used for warehouse and open storage purposes before the IDPA Plan (i.e. over 30 years ago) that made the application unique and distinguishable from other unmeritorious applications. On the day of hearing, however, the Appellant’s representative informed TPAB that he was now arguing that there was “EU” with no material change so that no action was required under the OZP according to paragraphs (3) and (13) of the covering Notes of the OZP;

- (b) TPAB considered that it was not only a departure from the previous arguments, but also a contradiction, because if paragraph (3) of the covering Notes of the OZP applied, then “no action is required”, viz. no application for permission was required in the first place; and
- (c) as the TPAB had no jurisdiction to decide whether the use was an “EU” and the applicability of paragraph (3) of the covering Notes of the OZP, the Appellant applied for the dismissal of the appeal case.

10. Members noted the decision of TPAB.

[Professor Simon K.L. Wong and Mr Vico P. Cheung joined the meeting during reporting of the above town planning appeal decisions.]

(iv) Appeal Statistics

11. The Secretary reported that as at 11.6.2024, one case was yet to be heard by the Town Planning Appeal Board and two appeal decisions were outstanding.

12. Details of the appeal statistics were as follows:

Allowed	45
Dismissed	177
Abandoned/Withdrawn/Invalid	214
Yet to be Heard	1
Decision Outstanding	2
<hr/> Total	<hr/> 439

Hong Kong District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Consideration of Representations in respect of the Draft Mid-Levels East Outline Zoning Plan No. S/H12/13

(TPB Paper No. 10972)

[The item was conducted in Cantonese and English.]

13. The Secretary reported that the amendment items on the draft Mid-Levels East Outline Zoning Plan No. S/H12/13 (the OZP) covered three adjoining sites at Stubbs Road and Tung Shan Terrace. Item A involved a partially agreed section 12A application (No. Y/H12/2) (the s.12A application) for a private residential development cum privately initiated residential care home for the elderly (RCHE) and R1 was the applicant of the s.12A application. Eden Retirement was one of the consultants of R1 on the RCHE project. The following Members had declared interests on the item:

Mr Ivan M.K. Chung - co-owning with spouse a property in Happy Valley;

Mr Derrick S.M. Yip - co-owning with spouse a property in Happy Valley; and

Mr Timothy K.W. Ma - being an adviser of Eden Retirement.

14. As the properties owned by Messrs Ivan M.K. Chung and Derrick S.M. Yip had partial/direct views of the sites covered by the amendment items, Members agreed that they should be invited to leave the meeting temporarily for the item. Members noted that while Mr Timothy K.W. Ma had provided general lands and planning advice to Eden Retirement without any direct involvement in the RCHE project at the Item A site, he indicated that he would leave the meeting for the item.

[Messrs Ivan M.K. Chung, Derrick S.M. Yip and Timothy K.W. Ma left and Professor Bernadette W.S. Tsui joined the meeting at this point.]

Presentation and Question Sessions

15. The Chairperson said that all representers had replied to the invitation to the hearing and one indicated not to attend. The Board should proceed with the hearing of the representations in the absence of that representer.

16. The following government representatives, representer and representer's representatives were invited to the meeting at this point:

Government Representatives

Planning Department (PlanD)

Ms Janet K.K. Cheung	-	District Planning Officer/Hong Kong (DPO/HK)
Ms Erica S.M. Wong	-	Senior Town Planner/Hong Kong
Mr Ronald C.H. Chan	-	Town Planner/Hong Kong (TP/HK)

Representer and Representer's Representatives

R1 – Sustaina Limited

Ms Pauline P.Y. Lam]	
Mr C.H. Lai]	
Mr Rock K.M. Tsang]	
Ms Nadine E. Maurellett]	Representer's Representatives
Mr Y.H. Ko]	
Mr Felix M.F. Lok]	
Ms Carrie K.Y. So]	

R3 – Mary Mulvihill

Ms Mary Mulvihill

- Representer

17. The Chairperson extended a welcome. She then briefly explained the procedures of the hearing. She said that PlanD’s representatives would be invited to brief Members on the representations. The representer and the representer’s representatives would then be invited to make oral submissions. To ensure efficient operation of the hearing, each representer would be allotted 10 minutes for making presentation. There was a timer device to alert the representer and the representer’s representatives two minutes before the allotted time was to expire, and when the allotted time limit was up. A question and answer (Q&A) session would be held after the representer and the representer’s representatives had completed their oral submissions. Members could direct their questions to the government representatives, the representer or the representer’s representatives. After the Q&A session, the government representatives, the representer and the representer’s representatives would be invited to leave the meeting. The Town Planning Board (the Board) would then deliberate on the representations in their absence and inform the representers of the Board’s decision in due course.

18. The Chairperson invited PlanD’s representatives to brief Members on the representations. With the aid of a PowerPoint presentation, Mr Ronald C.H. Chan, TP/HK, PlanD briefed Members on the representations, including the background of the OZP, the grounds/views of the representers and PlanD’s views on the representations as detailed in TPB Paper No. 10972 (the Paper). The amendment items on the OZP included:

- (a) Item A – rezoning a site at 15 and 24 Stubbs Road and 7 Tung Shan Terrace, as well as the adjoining government land (GL), to “Residential (Group C)3” (“R(C)3”) with stipulation of sub-areas, subject to a maximum gross floor area (GFA) of 11,010m² (including a GFA of not less than 2,258m² for RCHE) and maximum building heights (BHs) of 104mPD, 120mPD, 125mPD and 134mPD in the respective sub-areas to reflect a partially agreed s.12A application for a proposed residential development with privately-operated RCHE;
- (b) Item B1 – rezoning a site at 18 Stubbs Road, namely Central Peak, to “Residential (Group C)4” (“R(C)4”), subject to a maximum GFA of 16,800m²

and a maximum BH of 120mPD (including roof structures) to reflect the completed residential development; and

- (c) Item B2 – rezoning a strip of GL in between the Item A site in the east and Central Peak in the west (i.e. the Item B1 site) to an area shown as ‘Road’ to reflect the as-built condition.

19. The Chairperson then invited the representer and the representer’s representatives to elaborate on their representations.

R1 – Sustaina Limited

20. With the aid of a PowerPoint presentation, Ms Pauline B.Y. Lam, R1’s representative, made the following main points:

- (a) R1 was grateful to the Board for rezoning the Item A site to “R(C)3” to reflect the partially agreed s.12A application for a proposed residential cum RCHE development under Item A (application No. Y/H12/2);

Non-building Area (NBA)

- (b) there was a strip of unallocated GL abutting the western -boundary of the Item A site occupied by a public staircase/pedestrian walkway, a drainage channel and a retaining structure under R1’s maintenance. Although the drainage channel and retaining structure fell within a drainage reserve, R1 had concerns on the hygiene and security of the drainage reserve and intended to manage part of the drainage reserve (the concerned strip of GL) at its own cost and provide landscape features to beautify the area;
- (c) the concerned strip of GL was proposed to be included within the boundary of the new lot as an NBA under R1’s ownership, i.e. as a pink cross-hatched black area under the on-going land exchange, and would be excluded from GFA calculation in accordance with the s.12A application. Given that the concerned strip of GL was currently within an area shown as ‘Road’ on the

OZP within the Item B2 site, rather than the “R(C)3” zone covering the Item A site, it was uncertain whether the Lands Department (LandsD) would agree to include the concerned strip of GL in the land exchange. Therefore, R1 suggested rezoning the concerned strip of GL to “R(C)3” to facilitate the NBA proposal;

GFA Restrictions

- (d) the indicative development scheme in the s.12A application partially agreed by the Metro Planning Committee (MPC) of the Board in 2023 had a total GFA of 13,215m², including a domestic GFA of 8,749m² for residential use, a non-domestic GFA of 2,258m² for RCHE and a non-domestic GFA of 2,208m² for aboveground ancillary car park (assuming 50% GFA exempted). However, the GFA restriction of 11,010m² under the “R(C)3” zone of the OZP did not include any GFA for the aboveground car park;
- (e) while it would be difficult to provide an underground car park at the Item A site given the presence of Aberdeen Tunnel underneath, it was uncertain whether the Buildings Department (BD) might agree to exempt 100% of the GFA of aboveground car park thereat. It was the current practice of LandsD to adopt the maximum GFA of 11,010m² stipulated in the Notes of the OZP as development restriction but without a GFA exemption clause for the provision of aboveground car park in the land exchange. In the event that BD did not agree to grant GFA exemption for the aboveground car park, the total GFA of the proposed development would exceed the GFA restriction in the OZP. In order to fully utilise the domestic GFA of 8,749m² for residential use as agreed by MPC, R1 proposed to amend the Notes of the OZP for the “R(C)3” zone to increase the maximum total GFA to 13,215m², with a GFA of not less than 2,258m² for RCHE and a GFA of not more than 8,749m² for residential use, and any remaining GFA solely for aboveground car park and loading/unloading use; and

Provision of RCHE Beds

- (f) the RCHE would be provided on the fourth level of the podium of the proposed development. It was intended to provide large living space in the RCHE to achieve a “private home feeling”. After further study, it was found difficult to satisfy the minimum requirement for the provision of 60 beds as stipulated in the Explanatory Statement (ES) of the OZP without compromising the design objectives of the RCHE or affecting the potential to address new standards in the evolving senior living market. It was thus proposed to specify a range of 50 to 70 beds in the ES of the OZP.

R3 – Mary Mulvihill

- 21. With the aid of a visualiser, Ms Mary Mulvihill made the following main points:

Item A – the Zoning

- (a) part of the Item A site, originally occupied by two schools, had been rezoned from “Government, Institution or Community (4)” (“G/IC(4)”) to “R(C)3” to facilitate R1’s development under Item A. Noting that there were shortfalls in the provision of government, institution or community (GIC) facilities, the original “G/IC” zoning should be retained. Although the previous schools at the “G/IC” site had ceased operation, the site could be used for other GIC facilities rather than rezoning for residential use;
- (b) there was a strong demand for elderly care services, even for well-off families in Wan Chai. The two school sites could be used for RCHE without any rezoning. To fully utilise the land resources, other GIC uses might also be proposed for co-location at the site to meet the policy objective of “single site, multiple use”;

Item A – the RCHE

- (c) RCHE was proposed by R1 as a means to seek approval for rezoning the Item

A site for residential development. The RCHE, which was proposed in a partly underground podium without adequate natural lighting and ventilation, would not be a quality facility for the elderly. Being inaccessible to the open space on the podium deck, the living environment of the future RCHE residents would not be satisfactory. Instead of accommodating the RCHE in the podium, it should be provided in a separate block with adequate natural lighting and ventilation;

- (d) R1's proposal for incorporating the concerned strip of GL as NBA was only for an increase of GFA for residential use;
- (e) the views of R2 to impose more development control on the Item A site, including the number of residential units, were supported; and

Item B2

- (f) the public car park within the Item B2 site was no longer required given that the schools in the vicinity had ceased operation. The parking facility would only be used by the nearby residential developments which should already have their own parking facilities. The concerned area might be used for provision of more RCHE beds or other GIC facilities.

22. Ms Mary Mulvihill also made comments on the recent amendments to the Pok Fu Lam Outline Zoning Plan. The Chairperson said that the comments were not related to the subject OZP and should not be dealt with at the meeting.

23. As the presentations of PlanD's representative, the representer and the representer's representatives had been completed, the meeting proceeded to the Q&A session. The Chairperson explained that Members would raise questions to the representer, the representer's representatives or the government representatives to answer. The Q&A session should not be taken as an occasion for the attendees to direct questions to the Board or for cross-examination between parties. The Chairperson then invited questions from Members.

GFA Restrictions

24. In response to a Member's question on the GFA controls on ancillary car parks under the planning, lands and buildings regimes, Ms Janet K.K. Cheung, DPO/HK, PlanD said that according to Joint Practice Note No. 4 (JPN4) on streamlining development control amongst the buildings, planning and lands regimes, BD was the sole agent responsible for verifying the GFA computation for building facilities, features and structures of developments for the purpose of processing general building plans (GBP) under the three regimes. PlanD would generally follow BD's practice in GFA calculation and granting of GFA concessions for ancillary car parks. According to BD's relevant practice note (i.e. Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP) APP-2 on 'Calculation of Gross Floor Area and Non-accountable Gross Floor Area Building (Planning) Regulation 23(3)(a) and (b)'), if electric vehicle (EV) charging facilities were provided, 100% GFA exemption and 50% GFA exemption would be granted for underground and aboveground private car parks respectively. Nevertheless, BD might consider granting 100% GFA exemption for the aboveground car park if the project proponent could demonstrate, for example, site constraints making underground car park technically infeasible.

25. Ms Pauline B.Y. Lam and Mr Rock K.M. Tsang, R1's representatives, said that the approved s.12A application had demonstrated the feasibility of R1's development scheme with a domestic GFA of 8,750m² for residential use, a non-domestic GFA of 2,258m² for RCHE and a non-domestic GFA of 2,208m² for aboveground car park. While MPC had considered that the scheme could justify the rezoning, the maximum GFA of 11,010m² for the "R(C)3" zone in the Notes of the OZP had not included the GFA of 2,208m² for aboveground car park. As LandsD would follow the OZP restriction in formulating development control on maximum GFA under the lease, GFA exemption for aboveground car park, which was under the jurisdiction of BD, might not be reflected in the lease. If BD did not agree to grant GFA exemption for the aboveground car park, and PlanD and LandsD followed BD's practice, part of the domestic GFA might have to be used for parking provision, resulting in a reduction of GFA for residential use. That would not be in line with the original indicative scheme in the s.12A application partially agreed by MPC. Besides, GBPs were usually submitted after relevant procedures in the planning and lands regimes. If BD did not agree to grant GFA exemption for the aboveground car park, R1 would need to go through the statutory planning procedures again to seek relaxation of GFA restriction.

26. At the request of the Chairperson, Ms Janet K.K. Cheung, DPO/HK, PlanD explained that in the early 2010s, the Government had a policy initiative to encourage the provision of underground car park with a view to fostering a quality and sustainable built environment by reducing building bulk and height. Under such policy objective, BD had revised its practice note to grant 100% GFA exemption for underground car parks and 50% GFA exemption for aboveground car parks. The Chairperson supplemented that the policy intent was to encourage the provision of underground car parks by giving a clear message and incentive to the market. In the GBP submission for the proposed development in the subject case, if underground car park was proposed, all GFA for the car park could be exempted. If there was sufficient evidence that the provision of underground car park was technically infeasible, BD would also exempt the GFA for aboveground car park. As PlanD and LandsD would follow BD's practice, the GFA exemption for the ancillary car park had been aligned among the three regimes. However, if underground car park was not provided due to other considerations such as cost, the provision of aboveground car park would be GFA accountable, which was in line with the policy intent.

27. At the request of the Chairperson, Ms Jane K.C. Choi, Deputy Director/General, LandsD said that LandsD would stipulate development parameters under the lease to reflect the planning intention. The promulgation of JPN4 had aligned the practice amongst BD, PlanD and LandsD to determine the GFA calculation. Further, LandsD would follow BD's recent promulgation to grant 100% GFA exemption for not more than one aboveground floor on the condition that a minimum of two underground car parking floors fully utilising the site was provided.

28. In response to two Members' questions on the provision of underground car park at the Item A site, Ms Pauline B.Y. Lam and Messrs Felix M.F. Lok and Rock K.M. Tsang, R1's representatives, made the following main points:

- (a) at the s.12A application stage, government departments had commented that adverse impacts on Aberdeen Tunnel underneath the Item A site should be avoided. As such, it might be undesirable to provide underground car park;
- (b) R1 had made an enquiry submission to BD which proposed vehicular accesses

from Stubbs Road and Tung Shan Terrace and an underground car park at the Item A site. BD did not agree that the proposed car park could be considered as an underground facility and exempted from GFA calculation. BD's view had caused a concern that the GFA originally proposed for domestic units might have to be used for the car park provision, making the implementation of the original proposal in the s.12A application impossible. Such uncertainty should be removed as far as practicable. The Notes of the OZP for the "R(C)3" zone should be revised to specify a total maximum GFA of 13,215m² for the Item A site, with a GFA of not less than 2,258m² for RCHE and a GFA of not more than 8,749m² for residential use, and any remaining GFA solely for aboveground car park and loading/unloading use; and

- (c) a higher construction cost for underground car park would not be a concern to R1 as the cost would be reflected in the premium assessment.

29. Two Members raised the following follow-up questions:

- (a) whether the GFA of an ancillary car park could be exempted under the OZP; and
- (b) the vertical clearance between the proposed car park structure and Aberdeen Tunnel if the car park at the Item A site was built underground.

30. In response to the enquiry on GFA exemption under the OZP, Ms Janet K.K. Cheung, DPO/HK, PlanD said that a clause specifying that any floor space for use solely as car park and loading/unloading bay which were ancillary and directly related to the development or redevelopment might be disregarded in determining the maximum GFA for catering possible GFA concessions to be exempted under the Buildings Ordinance, had been incorporated in the Notes of the OZP for the "R(C)" zone.

31. Regarding the vertical clearance, Mr Felix M.F. Lok, R1's representative, estimated that, if the car park at the Item A site was built underground, the clearance between the car park structure and the Aberdeen Tunnel would be about 20m.

The Concerned Strip of GL

32. Two Members raised the following questions:

- (a) the current use of the concerned strip of GL and whether it was maintained by a government department; and
- (b) R1's proposal for the concerned strip of GL in the s.12A application.

33. In response, Ms Janet K.K. Cheung, DPO/HK, PlanD made the following main points with the aid of some PowerPoint slides:

- (a) there was a drainage reserve currently occupied by a retaining structure, an open channel and a storm drain underneath within the Item B2 site. The concerned strip of GL was the eastern portion of the drainage reserve not occupied by the open channel. The drainage reserve was managed by the Drainage Services Department while the public staircase/pedestrian walkway was managed by the Highways Department; and
- (b) at the s.12A application stage, R1 proposed to rezone the concerned strip of GL to "R(C)3" and designate it as an NBA. That said, R1 had no particular land use/landscaping proposal for the concerned strip of GL. Given that there was no strong justification for including GL into the "R(C)3" zone, the concerned strip of GL, together with the remaining part of the drainage reserve and the public staircase to the immediate west, was incorporated in the area shown as 'Road' under Item B2. In any case, amenity planting for the concerned strip of GL as currently suggested by R1 was always permitted according to the covering Notes of the OZP. So far, R1 had not submitted any landscaping and management proposal to the government departments, including LandsD. If R1 did so and there was no objection from relevant government departments, R1 could propose to LandsD to include the land in the future land exchange for landscaping and management. Such arrangement would not be in conflict with the provisions of the OZP.

34. In response, Ms Pauline B.Y. Lam and Mr Rock K.M. Tsang, R1's representatives, made the following main points:

- (a) the concerned strip of GL, together with the adjoining part of the Item A site, was originally zoned "R(C)1" on the approved Mid-Levels East Outline Zoning Plan No. S/H12/12. It was proposed to rezone the concerned strip of GL to "R(C)3" to reflect R1's intention to bring improvement to the amenity of the area. However, if the area was included in an area shown as 'Road' on the OZP, it might pose uncertainty for the incorporation of the concerned strip of GL as NBA in the land exchange; and
- (b) the proposed designation of NBA was only for better land management, rather than GFA calculation. If the concerned strip of GL could be included in the pink area in the land exchange, R1 would have complete control on the management of the area.

35. A Member asked whether LandsD would only allow R1 to landscape and manage the concerned strip of GL if it was rezoned to "R(C)3". In response, Ms Jane K.C. Choi, Deputy Director/General, LandsD said that it would be undesirable to leave it idle without a responsible management and maintenance party being identified. To allow the concerned strip of GL to be included in the pink area, the major considerations would be whether it could be capable of separate alienation, if there was any foreseeable public use for it, and whether Government would be financially worse off by granting it to R1. From land management viewpoint, the concerned strip of GL could be included in the development site for landscaping purpose subject to no objection from government departments concerned and reserving government's maintenance access to the public installations such as drainage system as necessary. The fact that the concerned strip fell within an area shown as 'Road' on the OZP would not adversely affect LandsD's consideration. If practicable, the concerned strip of GL in the form of NBA proposed in the planning application should be taken on board in the "R(C)3" rezoning exercise in the first place, as appropriate.

Number of RCHE Beds

36. Some Members raised the following questions:

- (a) whether the provision of RCHE was considered as a planning gain in the approval of the s.12A application, and the reason for specifying a requirement on the minimum number of 60 beds for the RCHE provision;
- (b) whether there was any change in R1's proposal for the RCHE compared to that submitted at the s.12A application stage; and
- (c) whether the requirements on the provision of RCHE were mandatory.

37. Ms Janet K.K. Cheung, DPO/HK, PlanD made the following responses:

- (a) when the s.12A application was considered by MPC on 5.5.2023, there was a thorough discussion on whether the previous school sites within the Item A site should be rezoned from "G/IC(4)" to "R(C)3". MPC's decision was made based on the planning gains proposed by R1 in its indicative scheme, including the provision of a RCHE with a GFA of not less than 2,258m² for 60 beds, and an improved pedestrian linkage between Stubbs Road and Tung Shan Terrace. Some MPC Members considered that the average GFA per RCHE bed (about 37.63m²) as implied in the indicative scheme was on the high side and there was room to provide more beds or other elderly facilities. To ensure implementation of the RCHE with flexibility for allowing other related elderly facilities in the proposed development, MPC agreed to specify a minimum non-domestic GFA of 2,258m² for RCHE and related elderly facilities in the Notes of the OZP, and a minimum number of 60 beds for RCHE in the ES of the OZP;
- (b) R1 had not provided any detailed design for the RCHE at the s.12A application stage nor additional information in its written representation. The floor layout for the RCHE was presented in the meeting for the first time; and
- (c) given that there was a GFA restriction for the provision of RCHE in the Notes of the OZP, any minor relaxation of the GFA restriction would require planning permission from the Board under section 16 of the Town Planning Ordinance (the Ordinance). Regarding the number of RCHE beds, while the minimum

requirement specified in the ES of the OZP was not statutory, any proposed change should be supported with strong justifications for consideration and agreement by relevant government departments.

38. A Member enquired about the rationale for a change in the minimum requirement on the provision of RCHE beds. In response, Ms Pauline B.Y. Lam, Mr Y.H. Ko and Ms Nadine E. Maurellet, R1's representatives, explained that only preliminary drawings for the RCHE had been prepared and submitted by R1 as part of the s.12 application. After MPC's partial agreement to the s.12A application, R1 proceeded to detailed design and found that given the site constraints, it would be difficult to provide 60 RCHE beds without compromising the living environment. Therefore, R1 requested to amend the minimum number of RCHE beds in the ES to a range between 50 and 70 beds.

39. A Member said that according to the current proposal for the provision of a RCHE on the fourth podium level of the proposed development, it might be difficult to provide 60 RCHE beds which could meet the natural lighting requirement under the Buildings Ordinance. It might be the reason for R1 to request the inclusion of the concerned strip of GL as NBA in the "R(C)3" zone of the OZP and the pink area under the lease to address the site constraints and natural lighting requirement. In any event, R1 could explore a better scheme in terms of natural lighting.

40. Ms Mary Mulvihill supplemented that the natural lighting issue was one of her grounds against the proposed provision of RCHE on a podium floor. The RCHE should be built as a separate block to provide a better living environment for the elderly.

Other Issues of the RCHE

41. Noting that the provision of RCHE was an important consideration for Item A, two Members asked whether there was mechanism to ensure the provision of RCHE before the issue of a Certificate of Compliance for the residential development at the Item A site.

42. In response, Ms Janet K.K. Cheung, DPO/HK, PlanD said that in processing R1's land exchange application at the next stage, LandsD would consult relevant government departments on the conditions to be imposed, including the Social Welfare Department (SWD) on

the requirements for the RCHE provision. Besides, the future operator of the RCHE would need to obtain a license from SWD and comply with the relevant statutory and licensing requirements, including those on the minimum floor space, natural lighting and facilities provided in the RCHE. As indicated by R1 in the s.12A application, it had intended to join the Government's Incentive Scheme to Encourage Provision of Residential Care Home for the Elderly Premises in New Private Developments. Under the Incentive Scheme, a developer would be required to build a RCHE in its new development and fulfil the relevant lease conditions for the RCHE, such as the minimum GFA for RCHE and other requirements as imposed by SWD. As such, the monitoring of the RCHE at the Item A site would be sufficient.

43. Ms Jane K.C. Choi, Deputy Director/General, LandsD supplemented that the development parameters of the subject RCHE stipulated under the OZP would be incorporated into the lease. The operation of the RCHE would be subject to the requirements of the relevant government departments such as SWD under their respective regulatory mechanisms. In case SWD and/or other government departments wished to impose requirements under lease, SWD and/or such government departments would be named as the approving authority to exercise its monitoring role for the satisfactory provision of the RCHE.

44. Mr Rock K.M. Tsang and Ms Nadine E. Maurellett, R1's representatives, said that an experienced RCHE operator would be engaged to run the RCHE in compliance with the relevant requirements of SWD. With reference to other precedent cases, there would be provision in the lease to allow the Government to take back the facility if R1 failed to provide the required RCHE.

45. In response to a Member's question on whether the future RCHE residents would be able to use the recreation and parking facilities in the residential component of the proposed development, Ms Pauline B.Y. Lam, R1's representative, said that car parking spaces would be reserved for visitors to the RCHE. Member's suggestions on other design measures would be conveyed to R1 for consideration.

Traffic Impact

46. A Member asked whether any subsequent increase in the number of residential units in the proposed development would require further traffic impact assessment (TIA). In response, Ms Janet K.K. Cheung, DPO/HK, PlanD said that R1 had submitted a TIA for the

proposed development at the s.12A application stage. The Transport Department had no in-principle objection to the TIA and advised that a requirement on the submission of a traffic review should be incorporated in the lease to ensure that the traffic impact from the future development would not be worse than that stated in the TIA report.

Public Car Park Covered by Item B2

47. In response to a Member's enquiry, Ms Janet K.K. Cheung, DPO/HK, PlanD said that the public car park mentioned by R3, which was an existing facility located to the south of Stubbs Road Garden, was providing eight metered car parking spaces within an area of about 300m². When relevant government departments were consulted on the OZP amendment items, there had been no request to remove the car park for other uses. The public car park was thus retained and included in an area shown as 'Road' on the OZP under Item B2.

48. As Members had no further questions to raise, the Chairperson said that the hearing procedures for the presentation and Q&A sessions had been completed. She thanked the presenter, the presenter's representatives and the government representatives for attending the meeting. The Board would deliberate on the representations in closed meeting and would inform the representers of the Board's decision in due course. The presenter, the presenter's representatives and the government representatives left the meeting at this point.

[The meeting was adjourned for a 5-minute break.]

[Messrs Stanley T.S. Choi and Rocky L.K. Poon and Professor Bernadette W.S. Tsui left the meeting during the break.]

Deliberation Session

49. The Chairperson remarked that the presentations of the representers in the meeting were mainly related to Items A and B2. For Item A, there were three main issues, including (i) whether the restriction on the maximum total GFA in the Notes of the OZP for the "R(C)3" zone should be increased to cater for the provision of aboveground car park and loading/unloading uses; (ii) whether the requirement on the provision of not less than 60 RCHE beds in the "R(C)3" zone as stated in the ES of the OZP should be amended to a range of 50 to

70 beds; and (iii) whether the boundary of the “R(C)3” zone should be extended westwards to include the concerned strip of GL. For Item B2, the issue was whether the existing public car park should be rezoned for other uses. The Chairperson then invited views from Members.

Item A - GFA Restrictions

50. Upon the Chairperson’s invitation, the Secretary explained that for the Item A site, the proposed access arrangement in the recent enquiry submission made by R1 to BD was different from its proposal submitted under the s.12A application. As BD did not agree that the car park proposed in R1’s previous enquiry submission was underground based on the latest proposed vehicular access arrangement, R1 might need to make another enquiry submission for a revised car parking proposal to demonstrate its underground nature or the site constraints that rendered an underground car park technically infeasible if seeking 100% GFA exemption for the car park.

51. While two Members were of the view that that R1’s amendment proposal on the GFA restrictions in respect of the car parking provision on the Item A site might provide greater certainty to the proposed development, other Members considered that no amendment to the OZP was required in that regard for the following major considerations:

- (a) it was the Government’s policy to encourage the provision of underground car parks to reduce the building bulk and height;
- (b) the Notes of the OZP for the “R(C)3” zone had already included provisions for GFA exemption of any floor space for use solely as car park and loading/unloading bay;
- (c) under the streamlined approach, PlanD and LandsD would follow BD’s views on GFA calculation and exemption. If BD accepted that the ancillary car park on the Item A site was provided underground and met other relevant requirements, or BD was convinced that such provision was infeasible, the GFA of the car park could be fully exempted under the buildings, planning and lands regimes;

- (d) the land exchange conditions for the Item A site would reflect the planning intention, including the provision for GFA exemption; and
- (e) as mentioned by R1, there would be a 20m clearance between Aberdeen Tunnel and the proposed car park if it was built underground. The construction of an underground car park might be technically feasible.

Item A - RCHE Provision

52. Members noted that the provision of RCHE was an important planning gain to support the rezoning of the “G/IC(4)” portion of the Item A site to “R(C)3”, and the requirement of not less than 60 RCHE beds was included when the s.12A application was partially agreed. Some Members considered that the requirement on the minimum number of RCHE beds in the ES had already given reasonable flexibility to R1 and thus should not be changed. R1 should be advised to implement a RCHE scheme with better design to meet the requirements of the OZP and the Buildings Ordinance, in particular on natural lighting and ventilation aspects. Regarding the implementation issues, more stringent restrictions might be included in the lease to ensure the provision and operation of the RCHE, in addition to SWD’s basic requirements.

Item A - Extension of the “R(C)3” Zone to Cover the Concerned Strip of GL

53. The Secretary reported that a Member who had left the meeting had requested her to convey the view that the concerned strip of GL could be considered for incorporation into the “R(C)3” zone for better management and maintenance.

54. Some Members expressed that the concerned strip of GL should be properly managed and maintained, particularly the ground level, which was the major concern of the general public. If no government department would take up the management of the concerned strip of GL, it could be included into the Item A site for landscaping purpose under R1’s management and maintenance. As the designation of the concerned strip of GL as an area shown as ‘Road’ on the OZP would not adversely affect LandsD’s consideration and the issue could be handled in the lands regime, amendment to the OZP was not necessary;

Item B2 - Public Car Park

55. Noting that the existing public car park to the south of Stubbs Road Garden might serve the visitors to the garden in addition to the nearby residential developments, some Members considered that the public car park was in line with the planning intention of the area shown as 'Road'. Given the car parking requirement in the locality and no particular alternative land use identified, the OZP should not be amended.

Procedural Matter

56. In response to a Member's enquiry, the Secretary said that if the Board considered that the OZP should be amended to meet any representation, it could propose amendments to the OZP under section 6B(8) of the Ordinance. The proposed amendments would be published for public inspection and making further representations in the first three weeks of the public inspection period under sections 6C and 6D of the Ordinance respectively. After seeking comments on the further representations from relevant government departments and written responses from the further representers in respect of the comments from relevant government departments, the Board would consider the further representations under section 6F of the Ordinance in respect of the proposed amendments.

Conclusion

57. The Chairperson remarked that as the practice of GFA exemption for ancillary car park had been aligned among the planning, buildings and lands regimes, the GFA restrictions for the "R(C)3" zone under Item A was appropriate. Issues regarding the provision of the RCHE and the management and maintenance of the concerned strip of GL could be dealt with in the lands regime at a later stage.

58. The Chairperson concluded that Members generally supported all the amendment items and agreed that the OZP should not be amended to meet the adverse representations. All the grounds of the representations had been addressed by the departmental responses as detailed in the Paper and the presentation and responses made by the government representatives at the meeting. Members also considered that the concerned strip of GL and the monitoring of the RCHE should be dealt with when the land exchange application was processed.

59. After deliberation, the Town Planning Board (the Board) noted the view of **R3 (part)** and decided not to uphold R1, R2 and R3 (part), and agreed that the draft Mid-Levels East Outline Zoning Plan (OZP) should not be amended to meet the representations for the following reasons:

“Item A

- (a) Item A is to take forward the section 12A application which was partially agreed by the Metro Planning Committee of the Town Planning Board taking into consideration the compatibility of the proposed development with the surrounding areas in terms of land use and development intensity, findings of relevant technical assessments, comments from the relevant government bureau/departments, and all the public comments received. The amendments with stipulation of development restrictions and requirements on the Plan, Notes and Explanatory Statement of the OZP are considered appropriate with proper development control while providing flexibility at detailed design stage to facilitate development of the proposed residential use cum residential care homes for the elderly and related elderly facilities. Relevant technical assessments for the indicative scheme in the partially agreed section 12A application confirmed that the proposed development would not induce insurmountable impacts on the surrounding areas (**R1 to R3**); and

Item B2

- (b) Item B2 is to reflect the as-built condition, and the rezoning of a strip of government land from “Comprehensive Development Area” and “Residential (Group C)1” to an area shown as ‘Road’ is considered appropriate (**R1 and R2**).”

60. The Board also agreed that the draft Mid-Levels East OZP, together with its Notes and updated Explanatory Statement, was suitable for submission under section 8(1)(a) of the Town Planning Ordinance to the Chief Executive in Council for approval.

Agenda Item 4

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

61. There being no other business, the meeting was closed at 12:20 p.m.