

REVIEW OF APPLICATION NO. A/FLN/19
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed Minor Relaxation of Plot Ratio and Building Height Restrictions
for Permitted Residential Development in “Residential (Group B)” Zone
Fanling Sheung Shui Town Lot No. 262, Ma Sik Road, Fanling, New Territories**

1. Background

- 1.1 On 11.7.2019, the applicant, Best Galaxy Limited represented by Pro Plan Asia Limited, submitted the subject application under the Section 16 of the Town Planning Ordinance (the Ordinance) to seek permission for proposed minor relaxation of plot ratio (PR) restriction from 3.5 to 3.5151 (+0.0151) (already approved under another Section 16 application¹) and building height (BH) restriction from 60mPD to not more than 62.75mPD (+2.75m) and from 75mPD to not more than 78.5mPD (+3.5m) for the eastern and western portions respectively of the application site (the Site), which is zoned “Residential (Group B)” (“R(B)”) on the approved Fanling North Outline Zoning Plan (OZP) No. S/FLN/2 (**Plan R-1**).
- 1.2 On 6.9.2019, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application for the reason that the applicant fails to demonstrate planning and design merits for the proposed minor relaxation of building height restriction for the proposed residential development.
- 1.3 The paper focuses on the consideration of the proposed minor relaxation of BH restriction. The applicant has previously formulated a development scheme for a residential development with 5 blocks complying the BH restrictions on OZP (OZP compliance scheme). A set of general building plans (GBPs) for the OZP compliance scheme has been approved by the Building Authority (BA) on 1.2.2019. Under the current application submission, the BH of Towers A, B and C at the western portion is proposed to increase by not more than 3.5m (+4.7%) from 75mPD to not more than 78.5mPD, whereas that of Towers D and E at the eastern part is proposed to increase by not more than 2.75m (+4.6%) from 60mPD to not more than 62.75mPD (Drawings A-1 and A-3 of **Annex A**) to enable an increase in the floor-to-floor height of the typical floors from 2.975m (in the OZP-compliance scheme/approved GBPs) to 3.15m for improving the liveability for the future residents of the proposed development. The layout plan, section plans and photomontages of the proposed residential development are at Drawings A-1, A-3 and A-4 of **Annex A**.
- 1.4 For Members’ reference, the following documents are attached:
 - (a) RNTPC Paper No. A/FLN/19 (Annex A)
 - (b) Extract of minutes of the RNTPC Meeting held on 6.9.2019 (Annex B)

¹ The minor relaxation of PR restriction has been approved with condition by the RNTPC on 17.5.2019 (Application No. A/FLN/17) (details at paragraph 3.9 below). For comprehensive presentation of the development scheme at the Site, the applicant included this approved proposal in this application.

(c) Secretary of the Board's letter dated 20.9.2019

(Annex C)

2. Application for Review

On 7.9.2019 and 23.9.2019, the applicant's representative applied, under Section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application (**Annexes D-1 and D-2**). The applicant has not submitted any further information in support of the review.

3. The Section 16 Application

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

- 3.1 The situations of the Site and its surrounding areas at the time of the consideration of the Section 16 application by the RNTPC are described in paragraph 7 of **Annex A**. There has been no material change of the situations since then (**Plans R-1 and R-2**).
- 3.2 The Site is gently flat and vacant with site formation works in progress. It is accessible via a temporary ingress/egress from Ma Sik Road.
- 3.3 The surrounding areas are mainly occupied by active/fallow farmlands and some temporary domestic structures in Ma Shi Po. However, these areas would be resumed and cleared by the Government and would form part of the future Kwu Tung North /Fanling North New Development Area (KTN/FLN NDA) development. It would become the future FLN Eastern District Centre, which will serve as one of the major activity nodes of the area, with a mix of residential use, retail, social and community facilities, public transport interchange (PTI) and public open space (including FLN Town Plaza). The planned land uses around the Site are as follows:
 - (a) to the immediate north are an area zoned "Open Space" ("O") which connects the FLN town centre to the Ng Tung River promenade, and an area zoned "Other Specified Uses" annotated "Commercial/Residential Development with Public Transport Interchange (1)" ("OU(CRDPTI)1") which is planned for a public housing development with commercial uses, social welfare facilities and a PTI. To the further north is Ng Tung River;
 - (b) to the east and northeast are a strip of "O" in parallel with the proposed Fanling Bypass Eastern Section and Ma Wat River; and to the further northeast off Ma Wat River are rural dwellings of San Uk Tsuen;
 - (c) to the immediate south is Ma Sik Road; and to further south and southwest off Ma Sik Road are the existing high-rise residential buildings in Luen Wo Hui area known as Wing Fai Centre and Belair Monte; and
 - (d) to the immediate west is the planned Road L1; and to further west and northwest are a cluster of planned private residential developments zoned "Residential (Group A)1" ("R(A)1") intermixed with the FLN Town Plaza zoned "O" and a site zoned "Government, Institution or Community" ("G/IC") planned for schools.

Planning Intention

- 3.4 There has been no change of the planning intention of the “R(B)” zone, which is mentioned in paragraph 8 of **Annex A**.
- 3.5 The planning intention of the “R(B)” zone is primarily for medium-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 3.6 As set out in the Explanatory Statement (ES) of the OZP, to provide flexibility for innovative design adapted to the characteristics of particular sites, minor relaxation of the PR and/or BH restrictions for the “R(B)” zone may be considered by the Board through the planning permission system. Each proposal will be considered on its individual planning merits.

Previous Applications

- 3.7 There were two previous applications (No. A/FSS/32 and A/FLN/17) at the time of the consideration of the Section 16 application, which are mentioned in paragraph 5 of **Annex A**. There has been no new previous application on the Site since then. Details of these applications are summarised at Appendix II of **Annex A** and their locations are shown on **Plan R-1**.
- 3.8 Application No. A/FSS/32 for religious institution involving a smaller area of the Site which was then zoned “Green Belt” (“GB”) on the draft Fanling/Sheung Shui OZP No. S/FSS/3 was rejected by the RNTPC on 3.7.1992 for the reasons that the proposed development does not conform with the Town Planning Board Guidelines for Application for Development within Green Belt (TPB PG-No. 10); no traffic noise mitigation measures were provided; and it may cause adverse traffic, sewerage and drainage impacts to the surrounding areas.
- 3.9 Application No. A/FLN/17 for minor relaxation of PR restriction from 3.5 to 3.5151 submitted by the same applicant of the current application to facilitate the provision of the proposed 6m-wide covered pedestrian walkway at the Site was approved by the RNTPC on 17.5.2019 on considerations that the application involves a minor increase in PR and would not result in any change to the established land use planning and development framework of the KTN/FLN NDA embedded in the OZP; the proposed pedestrian walkway at the Site would enhance public connectivity from/to Luen Wo Hui area and future FLN Town Centre; and Government departments consulted generally had no adverse comment on the application.

Similar Application

- 3.10 There was one similar application (No. A/KTN/54) for minor relaxation of PR and BH restrictions at the time of the consideration of the Section 16 application, which is mentioned in paragraph 6 at **Annex A**. There has been no new similar application on the OZP since then. Details of the application are summarised at Appendix III of **Annex A** and the locations of 2 sites in FLN NDA (i.e. Sites F1 and F2) are shown on **Plan R-1**.

- 3.11 Application No. A/KTN/54 for minor relaxation of PR and BH restrictions for 8 public housing sites in KTN/FLN NDA (of which 2 sites are in FLN NDA, i.e. Sites F1 and F2) were submitted by the Civil Engineering and Development Department (**Plan R-1**). For Site F1 zoned “OU(CRDPTI)1”, the maximum PR and BH are increased from 5 to 6 (+20%) and from 105mPD (eastern portion) / 125mPD (western portion) to 120mPD / 130mPD (+5-15m, +4-14%) respectively. For Site F2 zoned “R(B)”, the maximum PR and BH are increased from 3.5 to 3.9 (+10%) and from 75mPD to 85mPD (+10m, +13%) respectively. The application was approved by the RNTPC on 16.11.2018 based on considerations that the proposed minor relaxation would optimise the land resources to address pressing demand on public housing in the territory, and was considered in line with the 2018 Policy Address that 70% of the housing units on Government’s newly developed land would be for public housing; the application would not result in any change to the established land use planning and development framework, planning themes, objectives and concepts of the KTN/FLN NDA embedded in the OZPs; various technical assessments were conducted to demonstrate that the minor relaxation was technically feasible in terms of traffic, sewerage, drainage, water supply, environmental and visual aspects; and Government departments consulted generally had no adverse comment on the application.

4. Comments from Relevant Government Departments

- 4.1 Comments on the Section 16 application made by relevant Government departments are stated in paragraph 9 and Appendix V of **Annex A**.
- 4.2 For the review application, the following Government departments have been further consulted and their comments are summarised as follows:

Building Matters

- 4.2.1 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) based on the information available, he has no objection in principle to the application under the Buildings Ordinance; and
 - (b) the proposed BH of 3.15m is considered acceptable under PNAP APP-5 Height of Storeys Regulations 3(3) & 24 of Building (Planning) Regulations.
- 4.3 The following Government departments have no further comments on the review application and maintain their previous views on the Section 16 application as below:

Land Administration

- 4.3.1 The District Lands Officer/North, Lands Department (DLO/N, LandsD)’s comments on the application as stated in paragraph 9.1.1 of **Annex A** are recapitulated below:
- (a) the Site is held under Fanling Sheung Shui Town Lot No. 262 which is governed by New Grant No. 22584 (the New Grant);

- (b) in accordance with Special Condition (SC) 12(d) of the New Grant, no part of any building or other structure together with any condition or fitting (if any) to such building or structure erected on the lot shall exceed +60mPD and +75mPD on the eastern and western portions of the Site respectively, provided that rooftop structure may be allowed to exceed such limit to the satisfaction of the Director of Lands; and
- (c) if the Board approves the application, a lease modification would be required to effect the proposal. If the lot owner submits a lease modification application, such application will be considered by LandsD acting in the capacity of landlord at its sole discretion and there is no guarantee that such application will be approved. In any event, such application, if approved, will be subject to such terms and conditions as considered appropriate including payment of premium and administrative fee.

Urban Design and Landscape

4.3.2 The Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD)'s comments on the application as stated in paragraph 9.1.5 of **Annex A** are recapitulated below:

Visual and Urban Design Aspect

- (a) no adverse comment on the proposed minor relaxation of BH restriction, although apart from improving future residents' liveability, there is no apparent planning or design merit that can be attributed to the proposed minor relaxation of BH restriction;
- (b) the Site is situated within the character area of 'District Centre' at the southeastern edge of FLN NDA. A stepped BH concept is established under the OZP with the development intensity and BH stepping down from the central area of the district node towards the periphery and riverside; and
- (c) the Site is surrounded by planned medium to high-rise residential/commercial developments to its north and northwest subject to BH restrictions ranging from 75mPD to 130mPD and "GIC" developments to its southeast and west of up to 10 storeys (**Plan R-1**). To the south and southwest of the Site across Ma Sik Road are existing high-rise residential developments, namely Belair Monte, Wing Fai Centre, Regentville and Grand Regentville, with BHs ranging from 107mPD to 130mPD (**Plans R-1 and R-2**). The proposed maximum BHs of 62.75mPD to 78.5mPD are generally in line with the stepped BH concept established under OZP and are considered not incompatible with the existing and planned context of the surroundings. Besides, judging from the visual appraisal submitted by the applicant, no significant adverse visual impact is anticipated from the proposed minor relaxation of BH restriction.

Landscape Aspect

- (a) no objection to the application from the landscape planning perspective;
- (b) with reference to the aerial photo taken in 2018, the Site is a vacant land without significant landscape resource. The surrounding area comprises medium-rise residential development, temporary structures, farmlands and scattered tree groups. The proposed residential development at the Site is considered not incompatible with the existing landscape setting in proximity; and
- (c) with reference to paragraph 7.4 of the Planning Statement (Appendix Ia of **Annex A**), the applicant clarified that the number of blocks, block layout, number of units and range of flat sizes etc. remain as per the approved GBPs, and the proposal will not adversely affect accessibility, open space, parking and infrastructure serving adopted on the approved OZP. Further significant adverse landscape impact arising from the proposed development is not anticipated.

4.4 The following Government departments have no further comment on the review application and maintain their previous views of having no objection to or no adverse comment on the Section 16 application as stated in paragraph 9 and Appendix V of **Annex A**:

- (a) Commissioner for Transport (C for T);
- (b) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (c) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (d) Chief Engineer/New Territories East, Water Supplies Department (CE/NTE, WSD);
- (e) Chief Estate Surveyor/Acquisition, LandsD (CES/A, LandsD);
- (f) Chief Highway Engineer/NT East, Highways Department (CHE/NTE, HyD);
- (g) Director of Fire Services (D of FS);
- (h) Director of Environmental Protection (DEP);
- (i) Director of Electrical and Mechanical Services (DEMS);
- (j) Director of Agriculture, Fisheries and Conservation (DAFC);
- (k) Commissioner of Police (C of P); and
- (l) District Officer (North), Home Affairs Department (DO(N), HAD).

5. Public Comments on the Review Application Received During Statutory Publication Period

5.1 On 4.10.2019, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 25.10.2019, two public comments from members of the general public were received. Both comments (**Annexes E-1** and **E-2**) indicate no comment on the review application.

5.2 At the stage of Section 16 application, two public comments on the application from

members of the general public were received. One comment supported the application and another one indicated no comment on the application. Details of the comments are in paragraph 10 and Appendix IV of **Annex A**.

6. **Planning Considerations and Assessments**

The application is for a review of RNTPC's decision on 6.9.2019 to reject the application for proposed minor relaxation of PR and BH restrictions for permitted residential development at the Site which is zoned "R(B)" zone. As the applicant has not submitted any further information in support of the review, there is no change in the previous planning considerations and assessments in **Annex A**:

Minor Relaxation of BH Restriction

- 6.1 The application seeks relaxation of BH restriction from 60mPD to not more than 62.75mPD (+2.75m, +4.6%) and from 75mPD to not more than 78.5mPD (+3.5m, +4.7%) at the eastern and western portions of the Site respectively. According to the applicant, the BH relaxation would mainly achieve a higher typical floor-to-floor height for the proposed residential development as compared with the approved GBPs in compliance with the OZP restrictions, i.e. increasing from 2.975m to 3.15m, to improve the liveability for the future residents of the proposed development. The proposed increase of the overall BH by 2.75m / 3.5m is considered not substantial. As compared with the approved GBPs, there is no change to the overall layout, deposition of residential blocks, number of blocks and flats, and flat size in this application. CTP/UD&L, PlanD considered that the proposed BHs of 62.75mPD and 78.5mPD are still generally in line with the stepped BH concept established under OZP, are not incompatible with the existing and planned developments the surroundings, and judging from the visual appraisal submitted, no significant adverse visual impact is anticipated. Other concerned departments have no objection to or adverse comments on the application from traffic, environmental, drainage and landscape aspects.
- 6.2 As set out in the ES of the OZP, application for minor relaxation of BH restriction should be considered on its individual merits. While the applicant has claimed that the minor relaxation of BH is to achieve a higher floor-to-floor height for a better internal living environment of the proposed private residential development, and the proposed BH increase is not substantial and would not bring about unacceptable visual and other technical impacts, the applicant has not demonstrated any planning and design merits to justify the proposed BH relaxation. As revealed in the approved GBPs, the maximum PR of the "R(B)" zone could be accommodated under the current BH restrictions under OZP while meeting the relevant building and planning requirements. There is no strong justification for the minor relaxation of BH restriction.

Similar Application

- 6.3 As set out in paragraphs 3.10 and 3.11 above, a similar application (No. A/KTN/54) for minor relaxation of PR and BH restrictions for 8 public housing sites in KTN/FLN NDA including Sites F1 and F2 north/northwest of the Site (**Plan R-1**) was approved by the RNTPC on 16.11.2018. The approval has taken into account the planning merits of the application in providing more public housing units to meet pressing demand in the territory, which is in line with the target of allocating 70% of the

housing units in NDA for public housing as stated in 2018 Policy Address and has the policy support of the Secretary for Development. In comparison, the proposed BH increase in the application is to improve the internal living environment of the future residents of the proposed private residential development.

Public Comments

- 6.4 There are two public comments indicating no comment on the review application.

7. Planning Department's Views

- 7.1 Based on the assessment made in paragraph 6, having taken into account the public comments mentioned in paragraph 5, and given that there is no change in the planning circumstances since the consideration of the subject application by RNTPC on 6.9.2019, the Planning Department maintains its previous view of not supporting the review application for the following reason:

the applicant fails to demonstrate planning and design merits for the proposed minor relaxation of building height restriction for the proposed residential development.

- 7.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until **6.12.2023**, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval condition

the additional GFA of 246.536 m² allowed is only for the provision of the 6m-wide covered pedestrian walkway at the Site. [Same as that for approved Application No. A/FLN/17]

Advisory clauses

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

8. Decision Sought

- 8.1 The Board is invited to consider the application for a review of the RNTPC'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, and the date when the validity of the permission should expire.

9. Attachments

Annex A	RNTPC Paper No. A/FLN/19
Annex B	Extract of minutes of the RNTPC Meeting held on 6.9.2019
Annex C	Secretary of the Town Planning Board's Letter dated 20.9.2019
Annexes D-1 and D-2	Applicant' Letters dated 7.9.2019 and 23.9.2019 Applying for Review
Annexes E-1 to E-2	Public Comments on the Review Application
Annex F	Advisory Clauses
Plan R-1	Location Plan
Plan R-2	Site Plan
Plan R-3	Aerial Photo
Plan R-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**

**TPB Paper No. 10602
For Consideration by
the Town Planning Board
on 6.12.2019**

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