

MPC Paper No. A/K12/41
For Consideration by the
Metro Planning Committee
on 17.8.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K12/41

- Applicant** : Mr. LAU Ming represented by Giority Star Engineering & Consultants Limited
- Site** : Lots 1636 S.A and 1636 RP in S.D. 2, 57 Ngau Chi Wan Village, Kowloon
- Site Area** : About 151.5 m²
- Lease** : (a) Block Government Lease
(b) mixed lot with 0.02 acre (871.2 ft² or 80.9m²) building land and 0.02 acre (871.2 ft² or 80.9m²) agricultural land
- Plan** : Approved Ngau Chi Wan Outline Zoning Plan (OZP) No. S/K12/16
- Zoning** : "Government, Institution or Community" ("G/IC")
- Application** : Proposed Two Houses

1. The Proposal

1.1 The applicant seeks planning permission for development of two 3-storey houses on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the "G/IC" zone, 'House' is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

1.2 Details of the development proposal are as follows (**Drawings A-3 and A-4**):

Site Area	: 151.5m ²
No. of Blocks	: 2
Total Domestic Floor Area	: 244.896m ²
Total Plot Ratio	: 1.62
Site Coverage	: 53.88%
No. of Storeys	: 3
Building Height	: 8.23m

The uncovered area of the Site is intended for garden use.

1.3 In support of the application, the applicant has submitted the following documents:

(a) Application form received on 21.6.2018

(Appendix I)

- (b) Further information vide email dated 11.7.2018 (**Appendix Ia**) providing clarifications on background information
- (c) Further information vide email dated 19.7.2018 (**Appendix Ib**) providing clarifications on background information with submission of a sewerage connection proposal
- (d) Further information vide email dated 7.8.2018 (**Appendix Ic**) providing clarifications on the total floor area, plot ratio and site coverage of the proposed development with submission of replacement pages of application form, revised perspective drawing and layout plan

1.4 The layout plan and perspective drawing of the proposed developments as well as the sewerage connection proposal are shown on **Drawings A-1 to A-3**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I and Ib**. They are summarized as follows:

- 2.1 The proposed houses with building height of 8.23m are akin to New Territories Exempted Houses (**Drawings A-1 and A-2**). All balconies will be built within the subject lots and no Government land or neighbouring private land will be affected.
- 2.2 The applicant who is the current land owner is nearly 70 years old. The subject lots are the only piece of land he owns and the proposed houses are intended for his accommodations with sons and grandsons.
- 2.3 The Site has long been vacant without proper management. Public hygiene has always been the concern of the area. The proposed redevelopment would allow proper management of the land.
- 2.4 Should the application be approved by the Board, site formation plan, drainage proposal and building plan will be prepared by professionals and submitted to Buildings Department (BD) for approval. The applicant also undertakes to make sewerage connection from the Site to the public sewage manhole (**Drawing A-3**).
- 2.5 The applicant also undertakes to ensure that all mitigation measures would strictly follow the Air Pollution Control (Construction Dust) Regulation. To minimize dust emission during construction, the Site will be covered up and there will be frequent water spraying on the active construction area.

3. Background

- 3.1 Ngau Chi Wan Village is located to the east of Choi Hung Estate, and comprises mainly of low-rise village houses and temporary structures. In the 1970s, the Village was mainly zoned "Village Type Development" ("V") on the OZP. In the 1980s, a Layout Plan for Ngau Chi Wan Village was prepared to resite the southern part of the Village for the

construction of the Mass Transit Railway Choi Hung Station, and to provide the planning and development framework for the northern part of the Village with a view to improving the environmental conditions. The then Wong Tai Sin District Board (WTSDB) and the local communities were consulted on the Layout Plan in 1986, and considered the land use proposals acceptable. The Layout Plan was adopted by the then Development Progress Committee on 11.4.1988, and the proposals were then incorporated into the Ngau Chi Wan Outline Development Plan (ODP). According to the ODP, the resited village in the south is zoned "V", while the northern part is rezoned to residential, open space, a community hall and road. It aims to enhance the environment and provide supporting recreation and community facilities.

- 3.2 Subsequently, the proposals in the ODP were incorporated into the Ngau Chi Wan OZP. The northern part of the "V" zone was proposed to be rezoned to "Residential (Group B)" ("R(B)"), "Open Space", "G/IC" and area shown as 'Road'. Among others, the "G/IC" zone (covering the Site) is intended for development of a community hall and open-air public vehicle park. The then WTSDB, the then Ngau Tsuen Area Committee, Ngau Chi Wan Rural Committee and the local communities were consulted on the rezoning proposals in late 1989 and they indicated no objection to the proposals. In particular, the majority of land owners and tenants had indicated their support to the proposals as it would result in general improvement to the environment of the area. The view of the local communities had been taken into account in the plan making process prior to the gazetting of the OZP in 1990. The zonings of the Village and the Site remain unchanged since then (**Plan A-1**). Over the years, some of the "R(B)" zones have been developed for residential use (including Bayview Garden, Wealth Garden and Fire Services Department Married Quarters) and portion of the planned road leading to these developments (i.e. Wing Ting Road) have been completed (**Plans A-1 to A-3**).
- 3.3 On the draft Ngau Chi Wan ODP No. D/K12/D (**Plan A-2**), the northern part of the Site falls within a "Government" site designated for 'Community Hall', and the southern part is within an area reserved for open-air public vehicle park. The proposed elevated road passing through the Site as shown on the ODP is obsolete and has been replaced by an alternative proposal outside the site boundary. At present, there is no implementation programme for the proposed community hall and public vehicle park.

4. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

5. Town Planning Board Guidelines

- 5.1 The Town Planning Board Guidelines No. 16 (TPB PG-No. 16) for 'Application for Development/Redevelopment within "Government, Institution or Community" Zone for Uses other than Government, Institution or Community (GIC) Uses under Section 16 of the Town Planning Ordinance' is relevant to the application. The relevant planning criteria are as follows:
- (a) The applicant should satisfactorily demonstrate that the proposed development/redevelopment would not adversely affect the provision of GIC facilities in the district on a long-term basis.

- (b) The proposed development should not adversely affect the normal operation of the existing GIC facilities nor delay the implementation of the planned GIC facilities, if any, within the “G/IC” site.
 - (c) The proposed development should be compatible in land-use term with the GIC uses on the site, if any, and with the surrounding areas.
 - (d) The scale and intensity of the proposed development should be in keeping with that of the adjacent area.
 - (e) The scale and design of the proposed development should have regard to the character and massing of the buildings in the surrounding areas and should not cause significant adverse visual impact on the townscape of the area.
 - (f) The proposed development should be sustainable in terms of capacities of the existing and planned infrastructure such as drainage, sewerage, roads, water supply and utilities in the locality and its surrounding areas.
 - (g) There should be adequate provision of parking and loading/unloading facilities to serve the proposed development in accordance with the Hong Kong Planning Standards and Guidelines (HKPSG) and to the satisfaction of the Transport Department. Adequate vehicular access arrangements should also be provided to the satisfaction of the Transport Department.
 - (h) The proposed development should be sustainable in terms of the overall planned provision of open space and GIC facilities in the area.
 - (i) The proposed development should not cause, directly or indirectly, the surrounding areas to be susceptible to adverse environmental impacts and should not be susceptible to adverse environmental impacts from pollution sources nearby including heavily trafficked road; otherwise adequate environmental mitigation, monitoring and audit measures must be provided.
 - (j) For “G/IC” sites covered by mature trees and vegetation or located in areas of high landscape or amenity value, the design and layout of the proposed development should be compatible and should blend in well with the surrounding areas. The proposed development should not involve extensive clearance of existing natural vegetation, adversely affect the existing natural landscape, or cause adverse visual impact on the natural environment in the surrounding areas.
- 5.2 According to the TPB PG-No. 16, if the development is for predominantly non-GIC uses (e.g. more than 50% of the total site area or gross floor area of the development, as the case may be, are for non-GIC uses), the Board might consider rezoning the site to an appropriate zoning if the applicant could demonstrate that all the planning criteria (as summarized in paragraph 5.1 above) have been met.

6. Previous Applications

- 6.1 The Site is the subject of two previous s.16 planning applications (No. A/K12/20 and A/K12/35) and a s.12A rezoning application (No. Y/K12/1) (**Plan A-3**). Details of the applications are summarized at **Appendix IV**.

- 6.2 Both Applications No. A/K12/20 and A/K12/35 for the development of a house/two houses, submitted by the same applicant, were rejected by the Metro Planning Committee (the Committee) and the Board upon review on 22.12.2000 and 15.6.2007 respectively mainly on the grounds of being not in line with the planning intention of the "G/IC" zone, not complying with the TPB Guidelines in that the site was still required for GIC purposes and setting of an undesirable precedent.
- 6.3 Application No. Y/K12/1 to rezone the application site (same site as the subject application) from "G/IC" to "V" for construction of two houses was submitted by the same applicant. The application was not agreed by the Committee on 14.9.2016 mainly on the grounds that rezoning in a piecemeal manner would jeopardize the comprehensive development of the "G/IC" zone to provide the required GIC facilities for the area and setting of an undesirable precedent.

7. Similar Applications

There are two similar applications (No. A/K12/13 and A/K12/39) for proposed house at the middle part and northern corner of the same "G/IC" zone of the OZP (**Plan A-3**). Details of the applications are summarized at **Appendix V**.

Application No. A/K12/13

- 7.1 Application No. A/K12/13 was rejected by the Committee on 3.6.1994 on the ground that the proposed development would frustrate the future development of the site zoned for "G/IC" in a comprehensive manner.

Application No. A/K12/39

- 7.2 Application No. A/K12/39 for development of a house partly within the same "G/IC" zone and partly within an area shown as 'Road' was rejected by the Board upon review on 28.9.2012 mainly on the grounds of being not in line with the planning intention of the "G/IC" zone, not complying with the TPB Guidelines in that approval in a piecemeal manner would frustrate the planning and development of GIC facilities, approval would affect the implementation of the planned road project, and setting of an undesirable precedent.
- 7.3 The applicant of Application No. A/K12/39 subsequently lodged an appeal to the Town Planning Appeal Board (TPAB) on 17.11.2012. On 26.11.2013, TPAB allowed the appeal on a majority of 3 to 2. The main considerations of the majority view were as follows:
- (a) the appeal site had been zoned "G/IC" by the Government since 1990 and part of the appeal site was reserved for community hall use years ago. Yet, the proposed community hall had not been developed. This had sterilized the appellant's land and he was not allowed to develop it. This was unfair to the appellant;
 - (b) there were a lot of structures in the vicinity of the appeal site, the appellant's proposed development would not be incompatible with its surroundings. If the fire in the past had not ruined the structure previously on the site, it would have existed and be an integral part of Ngau Chi Wan Village;

- (c) approval of the application would not set an undesirable precedent because the land was and would continue to be zoned "G/IC", and any proposal for development or redevelopment in the said "G/IC" zone would be subject to risk factors. As most people were not willing to take such risks, it was anticipated that there would not be many similar applications;
 - (d) after the authorities decided on the planning intention for the area around the appeal site, several community facilities such as wet market, sports centre, civic centre and fire station etc. had been provided and no other facilities have been built thereafter. There were doubts on whether there was an imminent need to provide a community hall; and
 - (e) approving the application would not jeopardize the planning intention of the appeal site. If necessary, the Government could resume the land under the relevant ordinance. It was reasonable to approve the application when there was no action from the Government.
- 7.4 On the other hand, the minority of the TPAB Members considered that approval of the application in a piecemeal manner would frustrate the integrity of the planning and development in the area and set an undesirable precedent. They considered that it was more appropriate to consider the proposed development by way of a s.12A application to change the land use zoning of the appeal site. In such case, a comprehensive local consultation could be undertaken by the Authorities. This would avoid piecemeal approval of the application and was in line with the planning intention emphasizing public interest.
- 7.5 Building plans for house development at the appeal site under Application No. A/K12/39 were approved by the Building Authority (BA) on 6.9.2017 and 14.3.2018.

8. The Site and its Surrounding Areas (Plans A-1 to A-3 and aerial/site photos on Plans A-4 and A-5)

- 8.1 The Site is:
- (a) currently a piece of vacant land with a tree located on the south-western corner (**Plan A-5**);
 - (b) fronting onto Lung Chi Path which is a village road; and
 - (c) accessible by footpath leading from Lung Chi Path.
- 8.2 The surrounding areas have the following characteristics:
- (a) the existing Ngau Chi Wan Village is occupied by village houses and temporary structures, which are mainly for residential purpose with some 'eating place' and 'shop and services' uses on the ground floors of the buildings;
 - (b) the "V" zone of Ngau Chi Wan Village is in its immediate south. The Site is surrounded by village houses to its north, west and east, and the resited village houses to its south across Lung Chi Path. A 3-storey house, Choi Hung Villa, within the same "V" zone is to the further west;

- (c) private residential developments and Government staff quarters, including Bayview Garden, Wealth Garden and Wing Ting Road Fire Services Married Quarters, are to its further north;
- (d) GIC facilities, including Ngau Chi Wan Fire Station and Ngau Chi Wan Municipal Services Building with civic centre, library, indoor recreation centre and market within the same "G/IC" zone are to its further southeast;
- (e) about 1,142m² or 31.8% of area (excluding Ngau Chi Wan Fire Station and Ngau Chi Wan Municipal Services Building) within the subject "G/IC" zone are private lots (**Plan A-3**); and
- (f) the Mass Transit Railway Choi Hung Station is to its further south.

9. Planning Intention

The planning intention of the "G/IC" zone is primarily for the provision of GIC facilities serving the needs of local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of Government, organizations providing social services to meet community needs, and other institutional establishments.

10. Comments from Relevant Government Departments

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

No objection to the application subject to the following comments:

- (i) the Site falls within Lots 1636 S.A and 1636 RP in Survey District No. 2 ('the Lot'), which is held under the Block Government Lease dated 18.3.1905. The total area of the Lot is 0.04 acre of which 0.02 acre (871.2 ft²) is building land and 0.02 acre (871.2 ft²) is agricultural land.
- (ii) the building area as proposed by the applicant has exceeded the area permitted under the Lease and is in breach of the lease conditions. If the planning application is approved, the applicant is required to apply to his Office for lease modification to give effect to the proposal. However, there is no guarantee at this stage that the lease modifications would be approved. If the application for lease modification is approved by LandsD in the capacity as landlord at his sole discretion, it will be subject to such terms and conditions including the payment of premium and fee as considered appropriate by LandsD.

- (iii) other than the above, the floor area of the premises and other details submitted by the applicant have not been verified and the applicant is required to demonstrate the dimensions and calculation of the floor area when the lease modification application is submitted.

Building Matters

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

- (a) No objection to the application subject to the followings:
 - (i) before any new building works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance;
 - (ii) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively; and
 - (iii) as the Site does not abut on a specified street of not less than 4.5m wide, the permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.
- (b) Detailed comments under the Buildings Ordinance can only be formulated at the building plan submission stage.

Traffic

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

From traffic engineering point of view, the public vehicle park and associated extension of Wing Ting Road may be required if there is a development at the "G/IC" site and adjacent area. Since the land of the public vehicle park is occupied by other existing developments, the parking facilities should be contingent upon the adjacent development. Alternatively, the car parking spaces required could be provided within the future adjacent development to cater for the parking demand of the development itself. As such, the land for public vehicle park could be released for other use.

10.1.4 Comments of the Chief Highway Engineer/Kowloon, Highways Department (CHE/K, HyD):

No comment on the application noting that the proposed development is not directly connected to public road under maintenance of HyD.

Environment

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

- (a) No objection to the application from environmental perspective as adverse environmental impacts and sewerage impact associated with the proposed developments are not anticipated having considered that the applicant has:
 - (i) confirmed that the Site does not have direct line of sight to the ventilation shafts of MTR Corporation and Ngau Chi Wan Fire Station;
 - (ii) committed to lay the sewerage connection to the public sewerage manhole near Choi Hung Villa as indicated in the proposed sewerage plan (**Drawing A-3**); and
 - (iii) undertaken to strictly follow the Air Pollution Control (Construction Dust) Regulation and implement suitable mitigation measures to minimize environmental impacts during construction phase of the proposed house development.
- (b) Should the application be approved, the following approval condition is recommended :

‘the implementation of the sewerage connection from the Site to the public sewerage manhole to the satisfaction of the Director of Drainage Services or of the Town Planning Board.’

Drainage

10.1.6 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) No comment on the application from drainage point of view.
- (b) The nearest public sewerage manhole is located near Choi Hung Villa (**Plan A-3**). The Sewerage Infrastructure Group of Environmental Protection Department shall be consulted if sewerage connection from the proposed houses will be made.

Fire Safety

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

- (a) No specific comment on the application subject to fire service installation and water supplies for firefighting being provided to the satisfaction of his department. Detailed Fire Services requirement will be formulated upon receipt of formal submission of general building plans.
- (b) The arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the BD.

Urban Design and Landscape Aspects

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

Urban Design

- (a) While accommodation of the proposed houses in the area may not affect the character of the neighbourhood, given the setting of the Site which is almost in the middle of the “G/IC” zone, the compatibility of the proposed houses with respect to the planned land-use context would be the concern.

Landscape

- (b) With reference to the aerial photo (**Plan A-4**), the Site is located in an area of urban landscape character dominated by low to medium rise residential buildings and adjoining a pedestrian footpath (Lung Chi Path). The proposed house development is not incompatible with the landscape character of the surrounding environment. According to site photo (**Plan A-5**), the Site is partly vacant land with wild grown grassland and partly hard paved area. A mature tree is located at the south-western periphery of the Site.
- (c) According to the applicant, the development would not involve felling of trees. With reference to **Drawing A-1**, the building footprint of the two proposed houses are located at the northern half portion of the Site, while the southern portion will be uncovered area which is intended for garden purpose. Although landscape proposal and a broad-brush tree survey are not provided in this submission, it is observed that there is only one existing tree growing within the Site and it will be located out of the proposed building footprint.
- (d) In view of the above, she has no objection to the application from landscape planning point of view.
- (e) Due to the lack of available space within the Site, meaningful implementation of quality landscape planting (including further tree planting) within the Site is not practicable. In view of other effective administrative control for tree preservation under land lease/grant (e.g. Lands Department Lands Administration Office Practice Notes No. 7/2007A – Tree Preservation and Tree Removal Application for Building Development in Private Projects), it is considered not necessary to impose any landscape-related condition should the application be approved by the Board.

Provision of Community/Government Facilities

10.1.9 District Officer (Wong Tai Sin) (DO/WTS):

- (a) No adverse comment on the application.

- (b) There is still a demonstrated need for a community hall in the area as the Ngau Chi Wan, King Fu and Choi Hung areas, with a total population of around 53,100, do not have a community hall and no similar facilities in the area can cater for the hosting of various types of community activities. It is anticipated that the demand will only grow stronger with the increasing population brought by different residential development projects in the vicinity. It is a community wish that a community hall be constructed and locals are well aware that a site has been reserved for the development of a community hall and have high expectation that it could be delivered.
- (c) Despite the strong community wish, there is currently no development programme for the reserved community hall.

10.1.10 Comments of the Director of Social Welfare (DSW):

- (a) No comment on the application.
- (b) The following list of welfare facilities at Ngau Chi Wan Village covering the Site was proposed in 2012 and are to be reviewed should there be firmer development programme:
 - Residential care home of the elderly
 - Subvented urban hostel for single persons
 - Hostel for moderately mentally handicapped persons
 - Hostel for severely physically handicapped persons
 - Integrated vocational rehabilitation services centre
 - Supported hostel
 - Care and attention home for severely disabled persons
 - Day activity centre
 - Hostel for severely mentally handicapped persons

Housing

10.1.11 Comments of the Director of Housing (D of H):

- (a) Located in a “G/IC” zone next to Bayview Garden and Wealth Garden, the Site falls within an area which can be considered for public housing development. However, the implementation of public housing development at this Site hinges on rezoning, land resumption and clearance by the relevant Government departments.
- (b) the formulation of scheme for the Ngau Chi Wan site has not been commenced. While the need to provide the community hall would be taken into account, he cannot confirm at this stage on whether the facilities would be provided in stand-alone or integrated setting.
- (c) the Site falls within an area which can be considered for public housing development and its exclusion would affect the development scale and flexibility of the area in future.

10.2 The following Government departments have no comment on the application:

- (a) Director of Food and Environmental Hygiene;
- (b) Chief Engineer/Construction, Water Supplies Department; and
- (c) Commissioner of Police.

11. Public Comment Received During Statutory Publication Period

On 29.6.2018, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 20.7.2018, one public comment were received (**Appendix II**) from an individual objecting to the application mainly on the ground that no justification has been provided to indicate that there has been any change in material circumstances since the rejection of the previous application and there was a lack of community facilities.

12. Planning Considerations and Assessments

- 12.1 The proposed development is for construction of two 3-storey houses with a site area of 151.5m² and a total domestic floor area of 244.896m² at the Site within the “G/IC” zone. The planning intention of the “G/IC” zone is primarily for the provision of GIC facilities serving the needs of local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of Government, organizations providing social services to meet community needs, and other institutional establishments. Although the proposed house development is considered not incompatible with the surroundings which are predominately village houses and GIC facilities with some temporary structures and would not have any significant environmental impacts, it is not in line with the planning intention of the “G/IC” zone.
- 12.2 The proposed development does not comply with the Town Planning Board Guidelines for “Application for Development/Redevelopment within “G/IC” Zone for Uses other than GIC Uses” (TPB PG-No. 16) in that the Site is still required for GIC purposes. In this regard, DO(WTS) advises that there is a demonstrated need for a community hall in the area with the increasing population as the concerned area does not have a community hall. The locals are well aware that a site has been reserved for community hall development and have high expectation that it could be delivered, although there is currently no programme for its development. DSW also indicates there is local demand for welfare facilities. Meanwhile, TD advises that the land for the proposed public vehicle park as shown on the ODP (**Plan A-3**) could be released for other use as the required parking spaces could be provided within the future adjacent development to cater for the parking demand of the development itself. Nevertheless, as the Site is located in the central part of the “G/IC” zone, approval of the application would frustrate the comprehensive planning for the “G/IC” zone for provision of the planned GIC uses and would affect the provision of GIC facilities in the district.
- 12.3 The Site is covered by two previous s.16 applications (No. A/K12/20 and A/K12/35) for proposed house development in 2000 and 2007 and a previous s.12A application No. Y/K12/1 for rezoning from “G/IC” to “V” to facilitate house development in 2016 (**Plan A-3**). Both s.16 applications were rejected by the Committee/the Board on review mainly on the grounds of being not in line with the planning intention of “G/IC” zone, not complying with the TPB Guidelines and setting of an undesirable precedent, while

the s.12A application was not agreed by the Committee mainly on the grounds that rezoning in a piecemeal manner would jeopardise the comprehensive development of the "G/IC" zone and that it would set an undesirable precedent. With no material change in planning circumstances, there is no ground to deviate from the previous decisions of the Committee and the Board.

- 12.4 While a similar application (No. A/K12/39) (**Plan A-3**) was allowed by the TPAB in 2013, that appeal site is partly zoned "G/IC" and located at the corner of the "G/IC" zone and the TPAB's decision was based on site-specific circumstances. As the Site located in the central part of the subject "G/IC" zone is crucial for the comprehensive planning and development of the zone and there are a considerable amount of private lots with similar land status as the Site within the same "G/IC" zone, approval of the application would set an undesirable precedent for other similar applications in the area.
- 12.6 One public comment received objects to the application on the ground of no justification being provided to indicate that there has been any change in material circumstances since the rejection of previous application and a lack of community facilities. The planning considerations and assessments as mentioned in the above paragraphs are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed house development is not in line with the planning intention of the "Government, Institution or Community" ("G/IC") zone which was intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the residents in the area/district, and it would frustrate the planning and development of the planned community hall;
 - (b) the proposed development does not comply with the Town Planning Board Guidelines for "Application for Development/Redevelopment within "G/IC" Zone for Uses other than GIC Uses" in that the Site is still required for its designated GIC uses, and the proposed development would adversely affect the provision of GIC facilities in the area in the long term; and
 - (c) approval of the application would set an undesirable precedent for other similar applications in the area.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 17.8.2022, 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 approval condition(s) and advisory clause(s) are suggested for Members' reference:

Approval Conditions

- (a) the provision of fire service installation and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board; and

- (b) the implementation of the sewerage connection from the Site to the public sewerage manhole to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 21.6.2018
Appendix Ia	Further information from the applicant vide email dated 12.7.2018
Appendix Ib	Further information from the applicant vide email dated 19.7.2018
Appendix Ic	Further information from the applicant vide email dated 7.8.2018
Appendix II	Public Comment
Appendix III	Recommended advisory clauses
Appendix IV	Previous applications covering the Site
Appendix V	Similar applications within the same "G/IC" zone
Plan A-1	Location Plan
Plans A-2 and A-3	Site Plans
Plan A-4	Aerial Photo
Plan A-5	Site Photo
Drawing A-1	Layout Plan
Drawing A-2	Perspective Drawing
Drawing A-3	Sewerage Connection Proposal

**PLANNING DEPARTMENT
AUGUST 2018**

Recommended Advisory Clauses

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for lease modification to give effect to the proposal;
- (b) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department (BD) that:
 - (i) before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance;
 - (ii) the application site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively; and
 - (iii) as the application site does not abut on a specified street of not less than 4.5m wide, the permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage; and
- (c) to note the comments of the Director of Fire Services that arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the BD.

Previous s.12A and s.16 Applications covering the Application Site

Rejected Applications

Application No.	Zoning	Proposed Use(s)/Development(s)/ Rezoning	Date of Consideration (MPC/TPB)	Rejection Reasons
A/K12/20	"G/IC"	Proposed House	22.12.2000	(1), (2), (3) and (6)
A/K12/35	"G/IC"	Proposed Two Houses (Village Houses)	15.6.2007 (On Review)	(1), (4) and (6)
Y/K12/1	"G/IC"	To rezone the application site from "Government, Institution or Community" (G/IC") to "Village Type Development"	16.9.2016	(5) and (6)

Rejection Reason(s)

- (1) The proposed house development was not in line with the planning intention of the "G/IC" zone which was intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the residents in the area/district, and it would frustrate the planning and development of the designated community hall and public vehicle park uses.
- (2) The existing access road was too narrow and substandard for use as proper vehicular access to the application site.
- (3) No detailed information had been provided in the submission to demonstrate that the proposed development would not have any sewerage or drainage problems.
- (4) The proposed development did not comply with the Town Planning Board Guidelines for "Application for Development/Redevelopment within "G/IC" Zone for Uses other than GIC Uses" in that the subject site was still required for its designated GIC uses, and the proposed development would adversely affect the provision of GIC facilities in the area in the long term.
- (5) The application was for rezoning of a small part of a "G/IC" site in a piecemeal manner. Approval of the application would jeopardise the comprehensive development of the "G/IC" zone to provide the required GIC facilities for the area.
- (6) Approval of the application would set an undesirable precedent for other similar applications.

Similar s.16 Applications within the same "Government, Institution or Community"
("G/IC") zone on the Ngau Chi Wan Outline Zoning Plan

Approved Application

Application No.	Proposed Use(s)/Development(s)	Date of Consideration (Appeal Board)	Approval Conditions
A/K12/39	Proposed House	26.11.2013 (Allowed on Appeal)	(a) and (b)

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 design and layout of the proposed house that would not jeopardize the future road works to the satisfaction of the Commissioner for Transport or of the Town Planning Board.

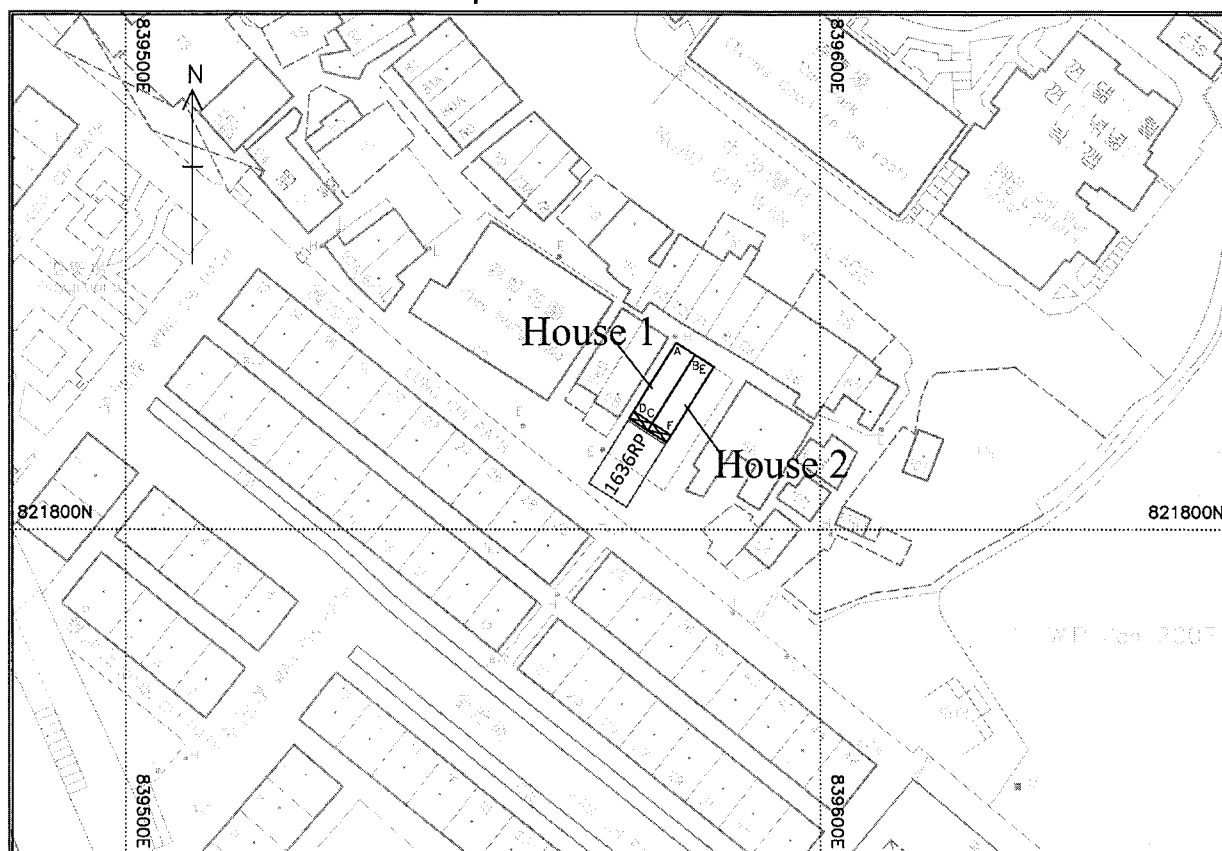
Rejected Application

Application No.	Proposed Use(s)/Development(s)	Date of Consideration (MPC)	Rejection Reason
A/K12/13	Proposed House	3.6.1994	(1)

Rejection Reason

- (1) The proposed development would frustrate the future development of the site zoned for "G/IC" in a comprehensive manner.

Plan of Proposed 2 Houses in S.D.2



m 20 0 20 40 60 80 100 m

SCALE 1 : 1000

Legend
 Balcony
 (1.219m x 3.200m)

House 1

SIDE	BEARING ° ' "	DISTANCE	POINT	N	E	AREA
A-B	122 11 42	3.200	A	821826.605	839579.276	40.816m ² (About)
B-C	212 11 42	11.536	B	821824.900	839581.984	
C-D	302 11 42	3.200	C	821815.138	839575.838	
D-A	32 11 42	11.536	D	821816.843	839573.130	

House 2

House 1 Dimension: 12.755m (11.536 + 1.219) x 3.2m x 8.23m

SIDE	BEARING ° ' "	DISTANCE	POINT	N	E	AREA
B-E	122 11 42	3.200	B	821824.900	839581.984	40.816m ² (About)
E-F	212 11 42	11.536	E	821823.195	839584.693	
F-C	302 11 42	3.200	F	821813.432	839578.546	
C-B	32 11 42	11.536	C	821815.138	839575.838	

Ref. SRP No.:

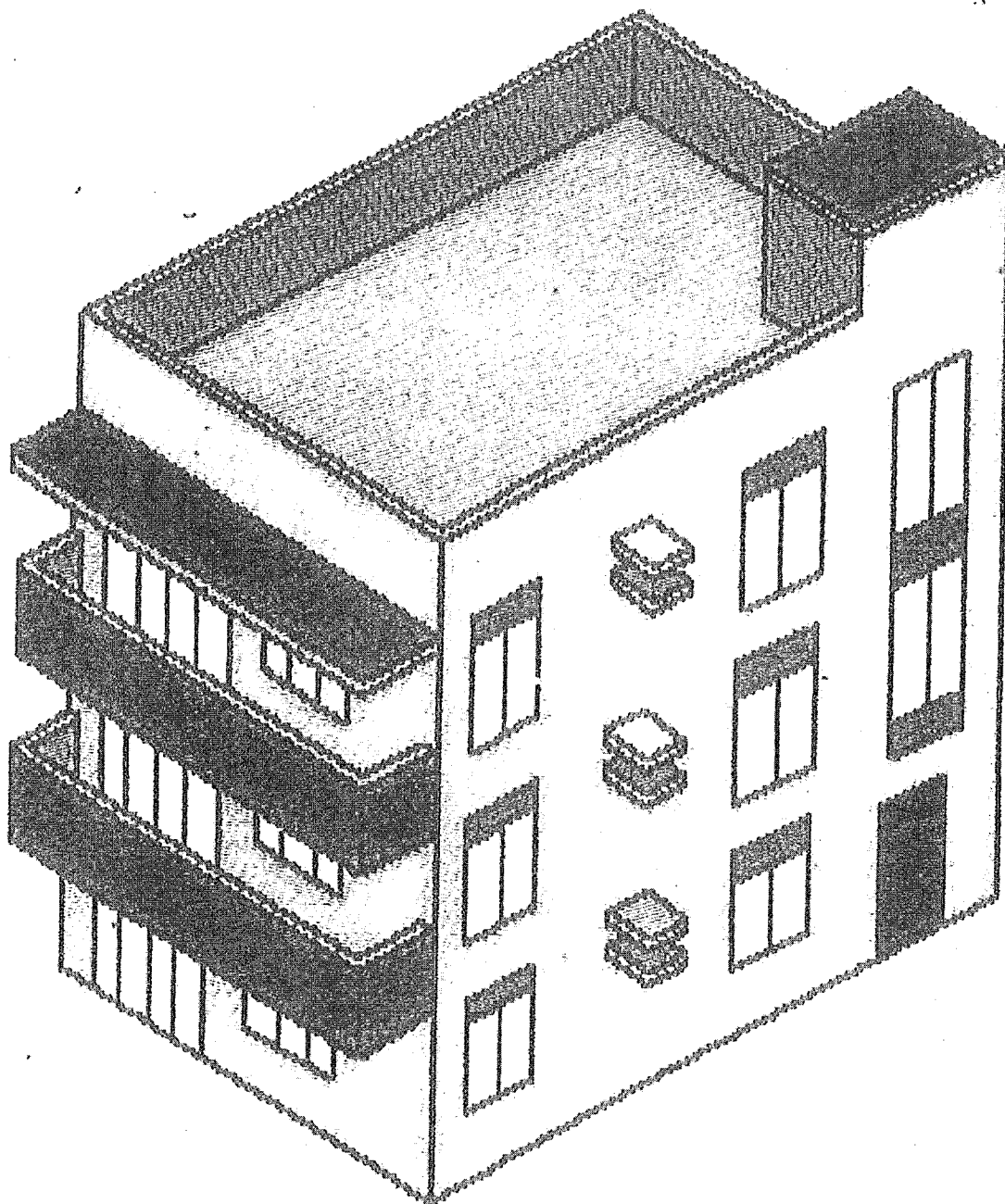
House 2 Dimension: 12.755m (11.536 + 1.219) x 3.2m x 8.23m

SRP/008/KL/2/1636A/D2

參考編號
REFERENCE No.
A/K12/41

繪圖
DRAWING
A - 1

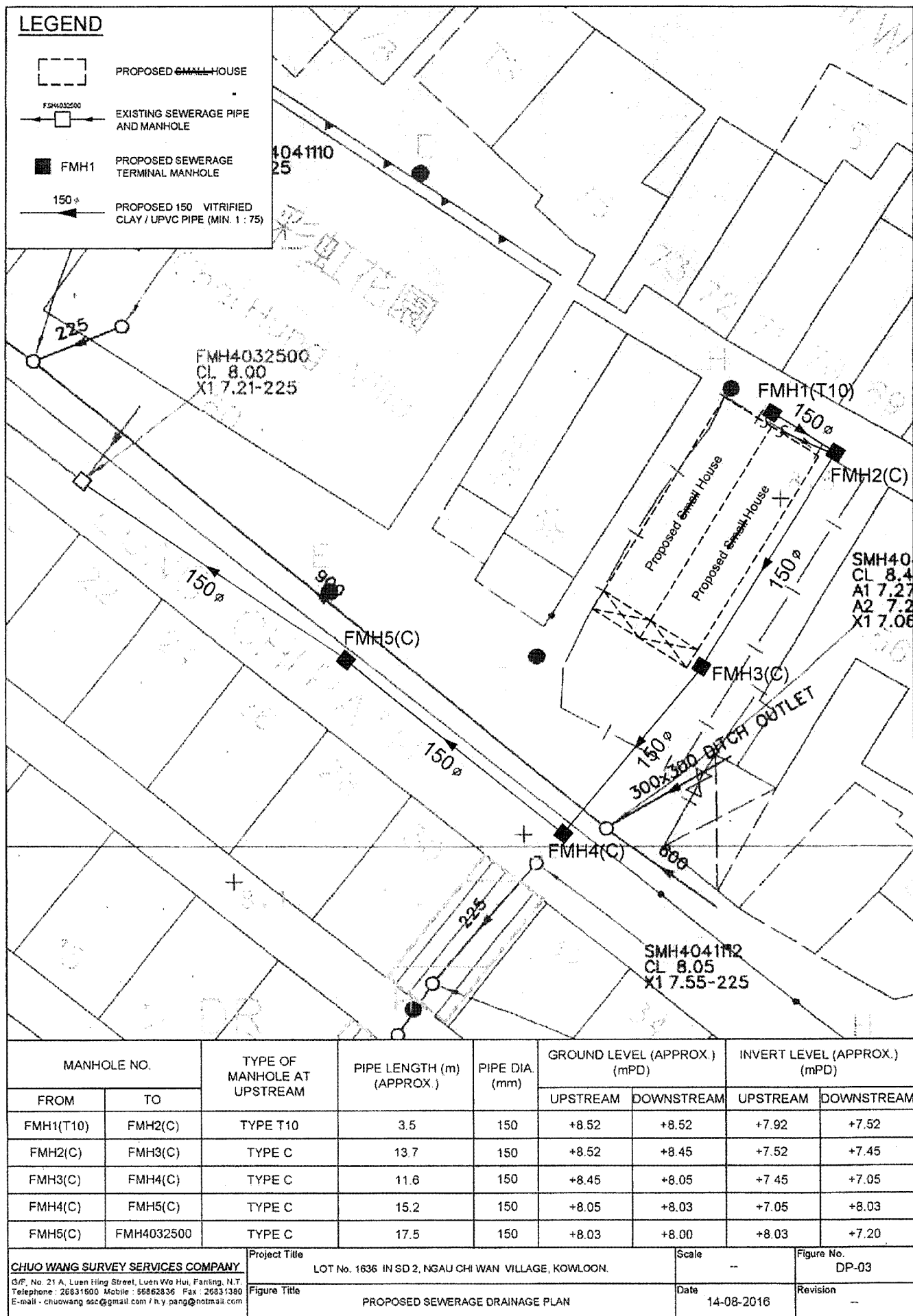
(Appendix IV)



Dimensions of Both Houses 1 & 2 : 12.755m (11.536 + 1.219) x 3.2m x 8.23m

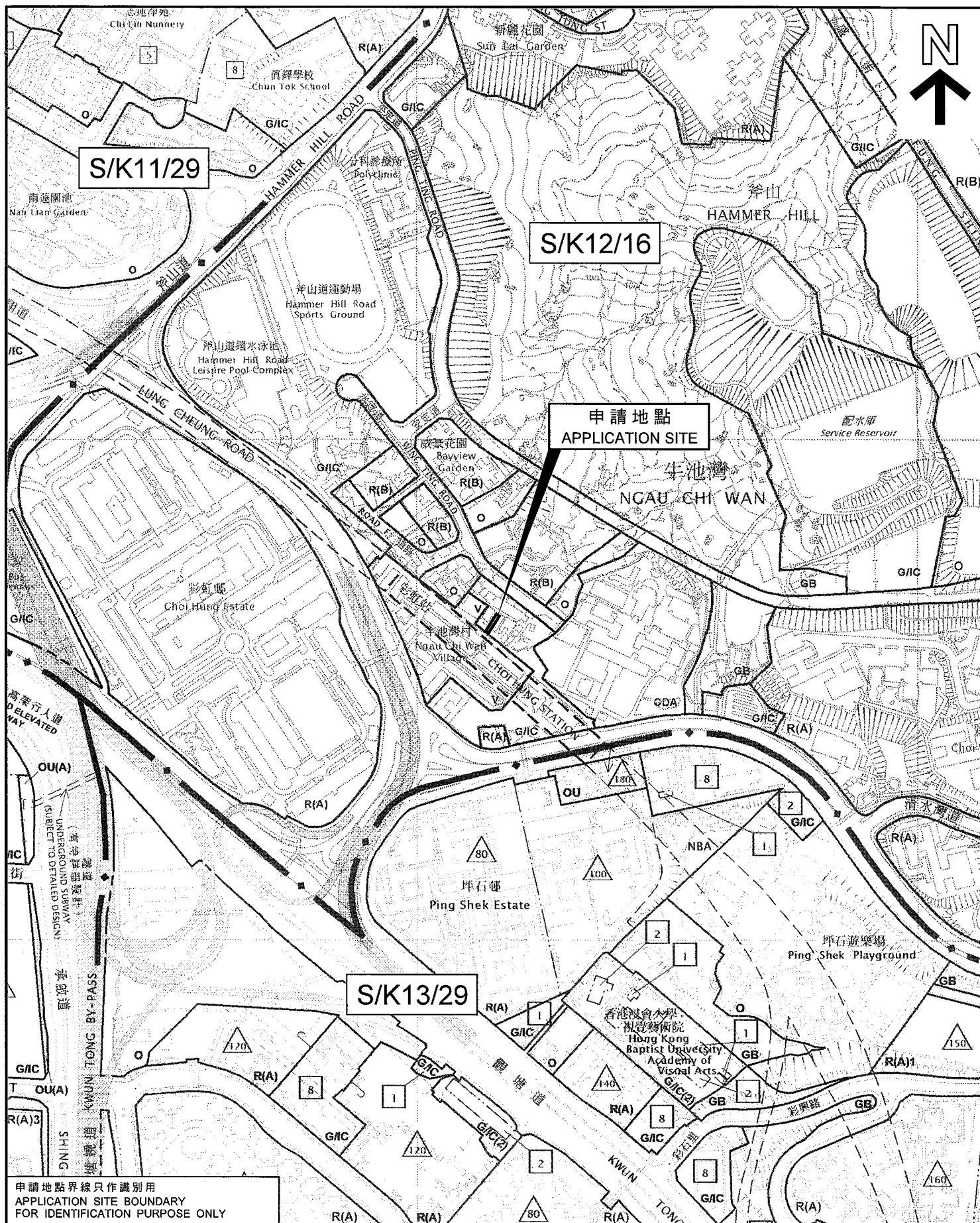
參考編號
REFERENCE No.
A/K12/41

繪圖
DRAWING
A - 2



參考編號
REFERENCE No.
A/K12/41

繪圖
DRAWING
A - 3



申請地點界線只作識別用
APPLICATION SITE BOUNDARY
FOR IDENTIFICATION PURPOSE ONLY

位置圖 LOCATION PLAN

擬議屋宇
九龍牛池灣村 5 7 號測量約份第 2 約地段第 1 6 3 6 號 A 分段及
第 1 6 3 6 號餘段
PROPOSED HOUSE
LOTS 1636 S.A AND 1636 RP IN S.D. 2,
57 NGAU CHI WAN VILLAGE, KOWLOON

SCALE 1 : 5 000 比例尺

米 100 0 100 200 米
METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.

A/K12/41

圖 PLAN

A - 1

本摘要圖於2018年7月12日核備，所根據的資料為
於2016年12月6日核准的分區計劃大綱圖編號S/K11/29、
於2004年11月2日核准的分區計劃大綱圖編號S/K12/16、
於2017年4月13日展示的分區計劃大綱圖編號S/K13/29及
於2018年5月15日核准的分區計劃大綱圖編號S/K22/6
EXTRACT PLAN PREPARED ON 12.7.2018
BASED ON OUTLINE ZONING PLANS No.
S/K11/29 APPROVED ON 6.12.2016,
S/K12/16 APPROVED ON 2.11.2004,
S/K13/29 EXHIBITED ON 13.4.2017 AND
S/K22/6 APPROVED ON 15.5.2018



平面圖 SITE PLAN

擬議屋宇

九龍牛池灣村 57 號測量約份第 2 約地段第 1 6 3 6 號 A 分段及
第 1 6 3 6 號餘段
PROPOSED HOUSE
LOTS 1636 S.A AND 1636 RP IN S.D. 2,
57 NGAU CHI WAN VILLAGE, KOWLOON

SCALE 1:1 000 比例尺

20 0 20 40
METRES METRES

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.
A/K12/41

圖 PLAN
A - 2

本摘要圖於2018年7月12日擬備，所根據
的資料為牛池灣發展大綱草圖編號D/K12/2D
EXTRACT PLAN PREPARED ON 12.7.2018
BASED ON NGAU CHI WAN DRAFT ODP
No. D/K12/2D



永定道

威豪花園
Bay View
Garden

怡發花園
Fortune
Garden

怡富花園
Wealth
Garden

消防處永定道
消防已婚宿舍
Fire Services
Department
Wing Ting Road
Fire Services
Married Quarters

彩虹邨
CHOI HUNG ESTATE

牛池灣消防局
Ngau Chi Wan
Fire Station

牛池灣街市
Ngau Chi Wan
Market

牛池灣市政大廈
Ngau Chi Wan
Municipal Services
Building

牛池灣體育館
Ngau Chi Wan
Sports Centre

CLEAR WATER BAY ROAD

坪石邨
PING SHEK ESTATE

A - 4

本摘要圖於2018年8月1日擬備，所根據的資料為地政總署於2017年12月27日拍攝的航攝照片編號E030467C

EXTRACT PLAN PREPARED ON 1.8.2018
BASED ON AERIAL PHOTO No. E030467C
TAKEN ON 27.12.2017 BY
LANDS DEPARTMENT



申請地點界線只作識別用
APPLICATION SITE BOUNDARY
FOR IDENTIFICATION PURPOSE ONLY

本摘要圖於2018年8月7日擬備，所根據的資料為
攝於2018年8月6日的實地照片

PLAN PREPARED ON 7.8.2018 BASED ON
SITE PHOTO TAKEN ON 6.8.2018

實地照片 SITE PHOTO

擬議屋宇
九龍牛池灣村57號測量約份第2約地段第1636號A分段及
第1636號餘段
PROPOSED HOUSE
LOTS 1636 S.A AND 1636 RP IN S.D. 2,
57 NGAU CHI WAN VILLAGE, KOWLOON

規劃署
PLANNING
DEPARTMENT



參考編號
REFERENCE No.

A/K12/41

圖 PLAN

A - 5

Kowloon District

Agenda Item 9

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/K12/41 Proposed Two Houses in “Government, Institution or Community”
Zone, Lots 1636 S.A and 1636 RP in S.D. 2, 57 Ngau Chi Wan Village,
Kowloon

(MPC Paper No. A/K12/41)

50. The Secretary reported that the site was located in Ngau Chi Wan Village, Choi Hung. Mr Martin W.C. Kwan, Chief Engineer (Works), Home Affairs Department (HAD) had declared an interest on the item as his close relative was owning a flat at Choi Fung Court in Choi Wan. The Committee agreed that as the property of Mr Martin W.C. Kwan’s relative had no direct view of the site, the Committee agreed that he could stay in the meeting.

Presentation and Question Sessions

51. With the aid of a PowerPoint presentation, Ms Sandy S.K. Ng, STP/K, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the proposed two houses;
- (c) departmental comments – departmental comments were set out in paragraph 10 of the Paper. The Commissioner for Transport advised that if there was a development at the site and adjacent area, a public vehicle park might be required. However, as the required parking spaces could be provided within the future adjacent development to cater for the parking demand of the development itself, the land for the proposed public vehicle park as shown on the Outline Development Plan could be released for other use. The District Officer (Wong Tai Sin) of HAD had no adverse

comment on the application but advised that there was a demonstrated need for a community hall in the area with the increasing population as the concerned area did not have a community hall. Despite the strong community wish, there was currently no development programme for the planned community hall. The Director of Housing said that the site fell within an area which could be considered for public housing development. Other concerned departments had no objection to or no adverse comment on the application;

- (d) during the statutory publication period, one public comment from an individual objecting to the application was received. Major objection grounds were set out in paragraph 11 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. Although the proposed house development was considered not incompatible with the surroundings which were predominately village houses and government, institution or community (GIC) facilities with some temporary structures and would not have any significant environmental impacts, it was not in line with the planning intention of the “Government, Institution or Community” (“G/IC”) zone. The proposed development did not comply with the Town Planning Board Guidelines No. 16 as the site was still required for GIC purposes. As the site was located in the central part of the “G/IC” zone, approval of the application would jeopardise the comprehensive planning for the “G/IC” zone and would affect the provision of GIC facilities in the district. There were previous applications at the site for the same proposed use which were rejected by the Committee and there was no ground to deviate from the previous decision of the Committee/the Town Planning Board. Although there was one similar application allowed by the Town Planning Appeal Board (TPAB), the concerned site was located at the corner of the subject “G/IC” zone and the decision was based on site-specific circumstances. Approval of the current application would set an undesirable precedent for other similar applications in the area. Regarding the adverse public comment,

the comments of government departments and planning assessments above were relevant.

52. Members raised the following questions:

- (a) the location of the nearby community halls and their service coverage;
- (b) noting that there would be increasing population in the area, the status and development progress of the planned residential developments and other existing residential developments in the area; and
- (c) the planning history of the subject "G/IC" zone.

53. Ms Sandy S.K. Ng, STP/K, made the following responses:

- (a) the nearby community halls were in Choi Wan Estate and Fung Tak Estate which were both located more than 500m away from the site;
- (b) a proposed development at the "Comprehensive Development Area" ("CDA") zone to the east of the site had been approved and it would have about 2,000 flats. The lease modification application was under processing and the general building plans had been approved. The area to the north of the site was private land and had been developed for residential uses including Bay View Garden, Fortune Garden and Wealth Garden; and
- (c) a Layout Plan for Ngau Chi Wan Village was prepared in the 1980s for resite of the southern part of the Village for the construction of the MTR Choi Hung Station, and to provide the planning and development framework for the northern part of the Village with a view to improving the environmental conditions. Although there was currently no programme for the development of the community hall, which was the designated GIC use at the site and its adjoining area, the concerned departments considered that a community hall was still needed to serve

the increasing population. A comprehensive planning for public housing development and other GIC facilities at the site could be explored.

54. A Member asked about the types of GIC facilities to be provided at the “CDA” site. In response, Ms Sandy S.K. Ng, STP/K, said that there would be a residential care home for the elderly and a kindergarten in the proposed development.

Land Resumption

55. Noting that the site was a piece of private land zoned “G/IC”, some Members asked how the Government would resume the site for development of the community hall. In response, Ms Sandy S.K. Ng, STP/K, said that if private land was involved, the Government could invoke the Lands Resumption Ordinance (Cap. 124) to resume private land for public purpose. The same would apply to the site under application No. A/K12/39 which was allowed by the TPAB in 2013.

Deliberation Session

56. In response to a Member’s enquiry, Mr Martin W.C. Kwan, Chief Engineer (Works), HAD, supplemented that there was a demonstrated need for a community hall in the area with a total population of around 53,100 and the locals were aware that a site had been reserved for the development of a community hall.

57. Members generally did not support the application as there was a need for the community hall. Some Members considered that the location of the site was in the central part of the “G/IC” zone and the approval of the application would jeopardize the comprehensive planning of the “G/IC” zone, and the implementation of the community hall within the “G/IC” zone should be taken forward as soon as possible.

58. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the proposed house development is not in line with the planning intention of the “Government, Institution or Community” (“G/IC”) zone which was intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the residents in the area/district, and it would frustrate the planning and development of the planned community hall;
- (b) the proposed development does not comply with the Town Planning Board Guidelines for “Application for Development/Redevelopment within “G/IC” Zone for Uses other than GIC Uses” in that the Site is still required for its designated GIC uses, and the proposed development would adversely affect the provision of GIC facilities in the area in the long term; and
- (c) approval of the application would set an undesirable precedent for other similar applications in the area.”

[The Chairman thanked Ms Sandy S.K. Ng, STP/K, for her attendance to answer Members' enquiries. She left the meeting at this point.]

[Ms Jessie K.P. Kwan, Senior Town Planner/Kowloon (STP/K), was invited to the meeting at this point.]

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/K12/41

By Registered Post & Fax (2384 1076)

7 September 2018

Giority Star Engineering & Consultants Ltd.
Rm 305, 3/F, Shiu Fung Building
7-13 Temple Street
Yau Ma Tei, Kowloon
(Attn: Pang Chi Keung)

Dear Sir/Madam,

**Proposed Two Houses in "Government, Institution or Community" Zone,
Lots 1636 S.A and 1636 RP in S.D. 2, 57 Ngau Chi Wan Village, Kowloon**

I refer to my letter to you dated 15.8.2018.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed house development is not in line with the planning intention of the "Government, Institution or Community" ("G/IC") zone which is intended primarily for the provision of government, institution or community (GIC) facilities serving the needs of the residents in the area/district, and it would frustrate the planning and development of the planned community hall;
- (b) the proposed development does not comply with the TPB Guidelines for "Application for Development/Redevelopment within "G/IC" Zone for Uses other than GIC Uses" in that the Site is still required for its designated GIC uses, and the proposed development would adversely affect the provision of GIC facilities in the area in the long term; and
- (c) approval of the application would set an undesirable precedent for other similar applications in the area.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 17.8.2018 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before

28.9.2018). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Sandy Ng of Kowloon District Planning Office at 2231 4964.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

Recommended Advisory Clauses

- (a) to apply to the District Lands Officer/Kowloon East, Lands Department for lease modification to give effect to the proposal;
- (b) to note that the application site would be subject to land resumption under the respective ordinance when a public project of planned development covering the application site is initiated for implementation;
- (c) to note the comments of the Chief Building Surveyor/Kowloon, Buildings Department (BD) that:
 - (i) before any new building works are to be carried out on the application site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance;
 - (ii) the application site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively; and
 - (iii) as the application site does not abut on a specified street of not less than 4.5m wide, the permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage; and
- (d) to note the comments of the Director of Fire Services that arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 which is administered by the BD.