

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H14/84

- Applicant** : Redhill Properties Limited represented by Masterplan Limited
- Location** : 6 Deep Water Bay Road
The Remaining Portion of Rural Building Lot 613 (RPL No. 613 RP)
- Site Area** : 2,620m² (about)
- Lease** : RBL 613 (with an area of about 2,787.09m²)
[RBL 613 RP is held under Government Lease No RBL 613 as varied by a Deed of Variation dated 13.9.1978.]
[RBL 613 sA was surrendered to Government with an area of about 167.5m² by a Deed of Surrender dated 21.12.1982.]
- Private Residential Purposes
 - Maximum Gross Floor Area (GFA) not exceeding 1,393.5m²
 - Maximum Site Coverage (SC) of 25%
 - Maximum Building Height (BH) of 3 storeys
- Plan** : Approved The Peak Area Outline Zoning Plan (OZP) No. S/H14/13
- Zoning** : “Residential (Group C) 1” (“R(C)1”)
- Maximum Plot Ratio (PR) of 0.5 or the PR of the existing building, whichever is the greater
 - Maximum BH of 3 storeys including carports or the height of the existing building, whichever is the greater
- Application** : Proposed minor relaxation of Plot Ratio restriction for permitted residential development (House)

1. The Proposal

- 1.1 The Site, located to the immediate north of Deep Water Bay Road, is zoned “R(C)1” on the approved The Peak Area OZP No. S/H14/13 (the OZP) and subject to a maximum PR of 0.5 and a maximum BH of 3 storeys including carports, or the PR and BH of the existing building, whichever is the greater. According to the Notes of the OZP, ‘House’ use is always permitted within the “R(C)1” zone. Based on individual merits of a development or redevelopment proposal, minor relaxation of the PR and BH restrictions within the “R(C)1” zone may be considered by the Town Planning Board (the Board) under section 16 of the Town Planning Ordinance (the Ordinance).

- 1.2 The applicant, Redhill Properties Limited represented by Masterplan Limited, seeks planning permission for proposed minor relaxation of PR from 0.5 to 0.532 (+6.4%) for a permitted residential development at the application site (the Site) (**Plans A-1 and A-2**), which is currently under site formation works.
- 1.3 According to the applicant's submission, the area and the maximum permissible GFA of the RBL 613 was about 2,787.09m² and 1,393.5m² respectively under the lease that was granted in 1964 and varied in 1978. Although a portion of RBL 613 (area of about 167.5m²) was surrendered to the Government in 1982 for road widening of Deep Water Bay Road resulting reduction of area of the Site (known as RBL 613 RP) to about 2,620m², the maximum permissible GFA of the Site remains 1,393.5m² under the lease. The Site was previously occupied by six houses, which were demolished in 2021, with a total GFA of 1,371.99m². The six houses were approved by the Building Authority (BA) on 20.11.1979 and the occupation permit (OP) was issued by the BA on 26.8.1981.
- 1.4 The applicant intends to redevelop the Site to a maximum GFA of 1,393.5m² as permitted under the lease, which is equivalent to a PR of 0.532 based on the reduced lot area (i.e. 1,393.5m² / 2,620m²). The floor plans and section plan of the proposed residential development submitted by the applicant are at **Drawings A-1 to A-4**. Major development parameters of the proposed scheme are set out as follows:

	OZP restriction (a)	Proposed Scheme (b)	Difference (b)-(a)
Site area	About 2,620m ²		N/A
PR (equivalent to GFA in m ²)	0.5 (equivalent to GFA of about 1,310m ²)	0.532 (equivalent to GFA of about 1,393.5m ²)	PR: +0.032 (i.e. about + 6.4%) Total GFA: +83.5m² (i.e. about +6.4%)
No. of Houses	N/A	2	N/A
No. of storeys	3 storeys including carports	3 storeys • G/F: carpark and plant room • 1/F and 2/F: residential uses	0
Maximum BH (at main roof)	N/A	199.0mPD	N/A
SC	N/A	About 47%	N/A
Car parking spaces (G/F)	N/A	6 • 4 private car parking spaces • 2 visitor parking spaces	N/A

N/A: Not Applicable

- 1.5 The applicant has submitted several sets of general building plans (GBP) to the BA between 2021 and 2022¹, and the submissions were approved by the BA on the basis of a total GFA not exceeding 1,371.99m² (i.e. GFA of the previous six houses), which is equivalent to a PR of 0.524 based on a reduced lot area of 2,620m² after the surrender of land for road widening. The proposed GFA under the current application is 21.5m² (i.e. about +2%) more than the GFA of the said approved GBP.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 3.8.2022 and replacement page received on 9.8.2022 (Appendix I)
 - (b) Supporting Planning Statement (SPS) received on 3.8.2022 (Appendix Ia)
 - (c) Further Information (FI) received on 9.9.2022 providing responses to departmental comments (Appendix Ib)
(exempted from publication requirements)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the SPS at **Appendix Ia**. They are summarised as follows:

Reduction of GFA Entitlement under OZP due to Surrender of Land for Public Purpose

- (a) RBL 613 (the original Lot) with an area of about 30,000ft² (i.e. about 2,787.09m²) was granted in 1964 for a term of 75 years and renewable for a further 75 years.
- (b) On 13.4.1973, the first statutory plan covering the Peak Area (Plan No. LH/20) was published. The Site was zoned “Residential” on the first statutory plan, subject to a maximum PR of 0.5.
- (c) On 13.9.1978, a Deed of Variation was made, stating the maximum GFA was 1,393.5m² (equivalent to PR of 0.5 based on site area of 2,787.09m²) and a portion of the Lot (area of about 167.5m²) (**Plans A-2 and A-4c**) to be surrendered for purpose of widening Deep Water Bay Road would be taken into account for the purpose of calculating the permitted total GFA and site coverage. It was a very clear the Government intended to fully respect the original GFA entitlement of the original Lot.
- (d) The OP of six houses within the Site was issued by the BA on 26.8.1981. Subsequently, a portion of the original Lot (about 167.5m²) was surrendered for road widening on 21.12.1982. The need for this s.16 planning application arises from the surrender of the part of the land for road widening which has effectively reduced the lot area (from 2,787.09m² to 2,619.59m²) and

¹ The latest set of general building plans (GBP) was approved by the BA dated 31.8.2022. According to the applicant, the design of the current application is similar to the design as submitted in the GBPs.

consequently reducing the GFA that can be built on the Site based on the PR restriction of 0.5 in the OZP.

- (e) This submission applies for minor relaxation of PR restriction which may be considered by the Board based on individual merits of the redevelopment proposal such that the permissible GFA of 1,393.5m² (equivalent to PR of 0.532) under the Lease can be built in the redevelopment of the Site.

Compatible Proposed Development

- (f) The proposed two 3-storey houses (**Drawings A-1 to A-4**) is compatible with the neighbourhood of low-density residential developments in terms of scale and character.

Insignificant Minor Increase in PR/GFA

- (g) The Site is not located at prominent location. The visual effect due to the minor increase of PR by 6.4% (i.e. from 0.5 to 0.532) is considered insignificant (**Drawings A-2 and A-3**).

No adverse traffic impact

- (h) The total number of car parking spaces has reduced from 12 of the previous six-house development to 6 in the proposed scheme (i.e. four private car parking spaces plus two visitor parking spaces). The reduction of car parking spaces would not anticipate any adverse traffic impact to the neighbourhood.

3. 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.

4. Previous Applications

There is no previous application covering the Site.

5. Similar Applications

There are six similar applications (Application Nos. A/H14/52, 54, 58, 68, 70 and 76) (Location Plan at **Plan A-1** and summary at **Appendix II**) for proposed minor relaxation of PR restrictions for permitted residential development (house) within the “R(C)” zones in the OZP. Four of six applications (Application Nos. A/H14/54, 68, 70 and 76) were approved by the Metro Planning Committee (the Committee) of the Board with conditions between 2007 and 2013 on the considerations that the proposed developments were to accommodate the bonus PR for dedication of area within the owner’s lot for road widening purposes/heritage preservation, and no significant implications/impacts on the overall scale of the development and on the local road system. The remaining two applications (Application Nos. A/H14/52 and 58) were rejected by the Committee in 2007 and 2008 respectively mainly on the grounds that

insufficient/no planning and design merits for the proposed relaxation, the proposed relaxation of PR from 0.5 to 0.6 was not minor in nature, and insufficient information to demonstrate that the merits brought about by the road widening proposal would outweigh the adverse landscape impact.

6. The Site and its Surrounding Areas (Plans A-1 to A-3 and site photos on Plans A-4a to A-4c)

6.1 The Site:

- (a) is on the south-eastern side of Mount Nicolson bounded by vegetated slope to the north (level about 194.6mPD), and vertical retaining wall abutting Deep Water Bay Road to the south (level about 173.9mPD) (**Plans A-2 and A-4b**);
- (b) is accessible via an access road connecting Deep Water Bay Road (**Plan A-4a**);
- (c) is barely visible from Deep Water Bay Road but invisible from Black's Link; and
- (d) is currently under site formation works (**Plan A-4a**).

6.2 The surrounding areas have the following characteristics :

- (a) to the immediate west, north and east are predominately low density residential developments within area zoned "R(C)1" on the OZP;
- (b) to the immediate south of the Site is a vertical retaining wall with an approximate height of 15.7m above Deep Water Bay Road (**Plans A-2 and A-4b**); and
- (c) to the south across Deep Water Bay Road is vegetated slope zoned "Green Belt" and to the southeast is a detached residential house within the "R(C)3" zone on the Approved Shouson Hill & Repulse Bay OZP No. S/H17/15.

7. Planning Intention

- 7.1 The "R(C)" zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board. Based on individual merits of a development or redevelopment proposal, minor relaxation of PR and BH restrictions may be considered by the Board on application under section 16 of the Ordinance.
- 7.2 According to paragraph 8.3.2 of the Explanatory Statement (ES) of the OZP, the main purpose of the 'PR restriction of 0.5 or the PR of the existing building, whichever is the greater' is to keep development intensity in the area to a level

which the existing road system can cope with and to maintain the existing character of the Area.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Hong Kong East, Lands Department (DLO/HKE, LandsD):

- (a) the Site falls within RBL 613 RP which is held under Government Lease of RBL 613, having an area of about 30,000ft² (about 2,787.09m²), as varied or modified by a Deed of Variation dated 13.9.1978. The lease term is 75 years from 12.12.1949 (renewable for 75 years). RBL 613 sA, having an area of about 167.5m², was surrendered to the Government by a Deed of Surrender dated 21.12.1982. Some salient lease conditions are summarised as follows:

User	Private residential purposes
GFA	Not exceeding 1,393.5m ²
Site Coverage	25%
No. of Storeys	Not more than three storeys
Parking Requirements	<ul style="list-style-type: none">- At rate of not less than two spaces per flat or per residential unit- One storey of carports designed and used solely for parking purposes (will not be taken into account for the purpose of calculating the maximum total GFA or the maximum total site coverage)
Others	<ul style="list-style-type: none">- Anti-stilting Clause- Design, Disposition, Height and Elevations Clause- Non-exclusively Right-of-way Clause (access to and egress from Deep Water Bay Road)- Offensive Trades Clause- Restriction on Tree Removal Clause

- (b) the proposed development, e.g. provision of parking spaces for the visitors and alignment of the access road as compared to the right-of-way, contravenes the lease conditions. An application for lease modification of redevelopment of the Lot has been received by his office in September 2021. The application will be considered by LandsD in the capacity of a landlord at this discretion and there is no guarantee that such application will be approved. If such application is approved by LandsD in its capacity as the landlord at its discretion, it will be subject to such

terms and conditions, including, among others, payment of premium and fees, as considered appropriate by LandsD; and

- (c) drawings for the proposed development, including their acceptability under lease, would be examined and considered at the development submission stage.

Traffic

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

- (a) no objection to the application;
- (b) the road widening of a portion of Deep Water Bay Road to the immediate south of the Site had been implemented and completed in 1980s. He supports that the voluntary set back and surrender of portion of the application site in 1982 which would facilitate implementation of any road widening scheme (**Plans A-2 and A-4c**); and
- (c) having reviewed the FI (**Appendix Ib**), he has no objection in principle to the proposed provision of car parking spaces from the traffic engineering point of view.

Landscape, Urban Design and Visual

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

Landscape

- (a) based on aerial photo of 2022 (**Plan A-3**), the Site is situated in an area of miscellaneous urban fringe landscape character surrounded by existing residential developments and road. The proposed development under this application involved two 3-storey houses, which is considered not incompatible with the landscape character of its surroundings;
- (b) some existing trees are observed mainly on slope in the northern portion of the Site. Having reviewed the FI (**Appendix Ib**), it is noted that among approx. 42 nos. of surveyed existing trees within the Site, 22 nos. are proposed to be retained and 2 nos. are proposed to be transplanted within the Site, the remaining existing trees are proposed to be removed or have been removed as approved by LandsD. With reference to the tree treatment schedule, all existing trees within the Site are common species, no OVT/potential OVT is found within the Site. According to 1/F Landscape Plan in the FI, landscape mitigation measures such as planting of approx. 18 new trees and shrub/groundcover planting areas are proposed within the Site;
- (c) the approval of this planning application does not imply approval of tree works such as pruning, transplanting and felling under lease.

The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works; and

Urban Design and Visual

- (d) the Site is within a cluster of low-rise low-density residential developments of 2 to 3 storeys on the slope of Mount Nicholson (**Plan A-1**). Considering that the additional GFA and PR from the proposal would only lead to very slight increase in development bulk as illustrated in **Drawings A-2** and **A-3**, it is unlikely to induce significant visual impacts to the surroundings.

8.1.4 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) no specific comment on the captioned application since no existing facilities or amenity areas nor trees under LCSD's purview in Southern and Wan Chai districts are identified to be affected; and
- (b) the project proponent is reminded to comply with the DEVB TC (W) 4/2020 Tree Preservation for the redevelopment project. Prior notification with submission of project details should be given to Southern District Leisure Services Office/LCSD for consideration and comments at early design stage.

Environmental

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

- (a) no objection in principle to the application;

Noise

- (b) the Site is in vicinity of Deep Water Bay Road (a district distributor), and the facades of the proposed residential development facing Deep Water Bay Road will be subject to potential traffic noise impact. Nevertheless, it is not anticipated to have insurmountable traffic noise problem on the proposed development with the implementation of practicable noise mitigation measures. Should the application be approved, an approval condition on the submission of a Noise Impact Assessment and implementation of the mitigation measures should be incorporated; and

Sewerage

- (c) according to the SPS submitted by the applicant, two swimming pools will be built in the proposed development. In this regard, should the application be approved, an approval condition on the submission of a Sewerage Impact Assessment to address the flow for sewage and wastewater generation (e.g. backwashing and the instantaneous peak discharge from the backwash) from the proposed development should be incorporated. Detailed comments are at **Appendix III**.

Buildings Aspect

8.1.6 Comments of the Chief Building Surveyor/Hong Kong West, Buildings Department (CBS/HKW, BD):

- (a) no objection to the application; and
- (b) detailed comments are at **Appendix III**. Further detailed comments under the Building Ordinance will be provided upon building plan submission.

Fire Safety

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

- (a) no objection in principle to the application subject to water supplies and fire service installations being provided to the satisfaction of D of FS;
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans; and
- (c) the EVA provision in the captioned works shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department. Also, the EVA provision of the nearby buildings shall not be affected by the proposed work.

Water Supply

8.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application; and
- (b) the application site is located within lower indirect water gathering ground (WGG) of Aberdeen Upper Reservoir. The applicant should note the detailed comments at **Appendix III**.

Drainage

8.1.9 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&I, DSD):

- (a) no objection to the application;
- (b) in view of only 21.5m² GFA (as compared to the previous six-house development) is increased, no significant increase of paved area is observed; and

- (c) should the application be approved, an approval condition should be incorporated that the implementation of improvement works as identified in the sewerage impact assessment to the satisfaction of the Director of Drainage Services.

8.2 The following departments have no objection to/no comment on the application:

- (a) Chief Highway Engineer/Hong Kong, Highways Department (CHE/HK, HyD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Project Manager (South), CEDD (PM(S), CEDD);
- (d) Commissioner of Police (C of P); and
- (e) District Officer (Wan Chai), Home Affairs Department (DO (Wan Chai), HAD).

9. Public Comments Received During Statutory Publication Period

On 12.8.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.9.2022, no public comment was received.

10. Planning Considerations and Assessments

- 10.1 The Site is currently zoned “R(C)1” on the approved The Peak Area OZP No. S/H14/13 subject to PR restriction of 0.5 and BH restriction of 3 storeys including carports, or the PR and BH of the existing building, whichever is the greater. The application is to seek planning permission for minor relaxation of PR from 0.5 to 0.532 (i.e. +6.4%) for a permitted residential development at the Site.

Minor Relaxation of PR

- 10.2 According to Clause (8) of the Deed of Variation signed by the Government and the land owner in 1978, it was being agreed and declared that the portion to be surrendered for road widening (about 167.5m²) would be taken into account for the purpose of calculating the permitted total GFA and site coverage. According to the Deed of Surrender in 1982, the portion of about 167.5m² was surrendered to the Government resulting the site area of the remaining lot (i.e. RBL 613 RP) to be reduced to 2,619.59m². As a result, the area of the RBL 613 RP would result in an increase of the PR from 0.5 to 0.532 based on the same GFA of 1,393.5m². The applicant, therefore, applied for minor relation of the PR from 0.5 to 0.532 (increase of 6.4%).
- 10.3 C for T advises that the road widening of a portion of Deep Water Bay Road to the immediate south of the Site for a 2.75m wide pedestrian footpath had been implemented and completed in 1980s. C for T also supported the voluntary set back and surrender of portion of the application site in 1982 to facilitate implementation of any road widening scheme (**Plans A-2 and A-4c**).

- 10.4 The proposed relaxation of PR from 0.5 to 0.532 is acceptable as it is in line with the Government's existing practice that private land proposed for surrender for street widening could be included in the site area for PR calculation upon redevelopment as reflected in the agreement signed in 1978. Adverse impacts due to the relaxation of PR are not anticipated.

Development Intensity

- 10.5 While the application is for minor relaxation of PR restriction, the BH of the proposed residential development does not exceed the BH restriction (i.e. 3 storeys including carports) as stipulated on the OZP. According to the applicant, the number of houses is reduced from six 3-storey houses to two 3-storey houses. Based on the lot area of about 2,620m², the proposed increase of PR from 0.5 under the OZP to 0.532 would amount to an increase in maximum GFA from 1,310m² of the equivalent GFA under the OZP to 1,393.5m² (i.e. increased by about 83.5m²). The impact on overall scale and character of the proposed development as shown on the floor plans and section plans submitted by the applicant (**Drawings A-1 to A-4**) and the surrounding area would not be significant.

Visual

- 10.6 The Site is surrounded by low-rise residential developments, retaining wall and vegetated slope. CTP/UD&L considers that the proposed development is not incompatible with the landscape character of its surroundings. Given that the additional GFA and PR from the proposed development would only lead to very slight increase in development bulk, CTP/UD&L considers that the proposed development is unlikely to induce significant visual impacts to the surroundings.

Other Technical Aspects

- 10.7 The applicant has submitted layout plans, section plans, and technical clarifications on aspects of traffic and landscape of the proposed development. C for T has no objection in principle to the proposed provision of car parking spaces from the traffic engineering point of view. All concerned departments consulted including CBS/HKW, BD, CE/HK&I, DSD, DEP, D of FS and CE/C, WSD have no objection to/no comment on the application. To address technical concerns from the government departments, relevant approval conditions are recommended in paragraph 11.2 below, should the application be approved by the Board.

Similar Applications

- 10.8 Four similar applications for minor relaxation of PR restriction for permitted residential development within the Peak Area were approved with conditions by the Committee (**Appendix II**), in particular, two approved cases were intended to accommodate the bonus PR for road widening purposes (i.e. Application Nos. A/H14/54 and 68). For the two applications rejected by the Committee, they were rejected because the scale of relaxation was not minor, and insufficient information to demonstrate that the merits brought about by the road widening proposal would outweigh the adverse landscape impact. Rejection reasons are

not relevant to the current application. Considerations of the current application is generally in line with the previous decisions made by the Committee.

11. Planning Department's Views

- 11.1 Based on the assessments made in paragraph 10, Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.9.2026, and after the said date, the permission shall cease to have effect unless prior to the said date either the development hereby permitted is commenced or this permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of noise impact assessment and implementation of noise mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (b) the submission of sewerage impact assessment to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (c) in relation to (b) above, the implementation of improvement works as identified in the sewerage impact assessment to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix IV**.

- 11.3 There is no strong planning reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

13. Attachments

Appendix I	Application form received on 3.8.2022 and replacement page received on 9.8.2022
Appendix Ia	Supplementary Planning Statement received on 3.8.2022
Appendix Ib	Further Information received on 9.9.2022
Appendix II	Similar applications
Appendix III	Detailed departmental comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Ground floor (G/F) plan
Drawing A-2	First floor (1/F) plan
Drawing A-3	Second floor (2/F) plan
Drawing A-4	Section plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**