

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/H5/419

- Applicant** : Board Profit Limited and Come First Limited represented by Townland Consultants Limited
- Site** : 33 – 35 Kennedy Road, Wan Chai, Hong Kong
- Site Area** : About 715.7m²
- Lease** : Inland Lot (I.L.) No. 1923 s.C ss.1 and I.L. 1923 s.C ss.2
- (a) for a term of 75 years renewable for 75 years commencing from 6.8.1912
- (b) permit for development of European type and design subject to the non-offensive trades clause and rate and range clause
- Plan** : Draft Wan Chai Outline Zoning Plan (OZP) No. S/H5/30
- Zoning** : “Residential (Group B)” (“R(B)”)
- (a) maximum building height (BH) of 120mPD or the height of the existing building, whichever is the greater
- (b) provision for application for minor relaxation of BH restriction (BHR)
- Application** : Proposed Minor Relaxation of BHR for Permitted Flat Use

1. The Proposal

- 1.1 The applicants seek planning permission for proposed minor relaxation of BHR from 120mPD to 129.95mPD (i.e. +9.95m or +8.29% in terms of mPD and +11.97% in terms of absolute BH with the mean street level at 36.9mPD) for permitted flat use at the Site. The Site falls mainly within “R(B)” zone¹ on the draft Wan Chai OZP No. S/H5/30 (**Plan A-1**). According to the Notes of the OZP, while ‘Flat’ use is always permitted within the “R(B)” zone, minor relaxation of the BHR may be considered by the Town Planning Board (the Board) based on its individual merits.

¹ A minor portion of the Site (i.e. about 29.3m²) falls within area shown as ‘Road’ which will be maintained as a right of way with no building structure. Hence, it will be treated as minor boundary adjustment of “R(B)” zone.

- 1.2 The Site is the subject of a previous application No. A/H5/414 which was rejected on review by the Board on 21.1.2022 and is currently under appeal under Section 17B of the Town Planning Ordinance (the Ordinance). On 21.1.2022, the Board rejected the application on review for the reason that the applicants failed to demonstrate strong planning and design merits to justify the proposed minor relaxation of BHR. A comparison of the development parameters of the previous application and the current application are summarised as follows:

Development Parameters	Previous Application (No. A/H5/414) (a)	Current Application (No. A/H5/419) (b)	Difference(s) (b) – (a)
Site Area	About 715.7m ²		No Change
Total Domestic Gross Floor Area (GFA) ⁽¹⁾	5,725m ²		No Change
Domestic Plot Ratio (PR)	7.999		No Change
BH (at main roof)	129.95mPD		No Change
No. of Storeys			
Podium	3		No Change
Domestic Floor	25		No Change
Site Coverage			
Tower 1/F - 25/F	33.33%		No Change
Podium G/F	-	35.582% ⁽²⁾	-
LG1/F	-	42.13%	-
LG2/F	-	42.13%	-
No. of Units	75		No Change
Average Flat Size	57m ²	60m ²	+3m ²
Floor-to-floor (FTF) Height of Typical Floor	3.15m (Special Floors: 3.5m)		No Change
Car Parking Spaces			
- Private Car	1 (for disabled)	N/A	-1 (for disabled)
- Motorcycle	N/A	2 (for motorcycle)	+2 (for motorcycle)
Loading/Unloading (L/UL) Facilities	N/A	1 L/UL Bay for Light Goods Vehicle (LGV)	+1 L/UL Bay for LGV

⁽¹⁾ Including GFA concessions and exemptions (including residents' clubhouse, E&M plant rooms, covered landscape garden, balcony, utility platform, guard room, larger lift shaft, etc.) which are subject to the Building Authority (BA)'s approval at the building plan submission stage

⁽²⁾ Excluding setback spaces for recess planters and hard paved areas

- 1.3 According to the applicants, the increase in BH is to accommodate all of the permissible GFA whilst achieve a FTF height of 3.15m for the typical residential floor. There will be two entrances for the proposed development, one will be located at the northeastern side of the Site which is the existing right-of-way (ROW) at +36.95mPD (LG2/F) (**Drawing A-2**), and the other at the southwestern side of the Site which is accessible from Kennedy Road (**Drawing A-4**). The topmost two floors (i.e. 24/F (with terrace) and 25/F) are having a FTF height of 3.5m (**Drawings A-6 to A-8**). The layout plan, floor plans and section plan of the proposed development are shown at **Drawings A-1 to A-8**. The proposed development is scheduled to be completed in the end of 2024.

- 1.4 The Site is about 715.7m² and about 50% of which is occupied by the ROW which is a non-buildable area to provide vehicular access from Kennedy Road to Wing

Way Court and Phoenix Court with pedestrian connection to the Spring Garden Lane staircase. After accommodating all the necessary building features at LG2/F, the remaining area only can be utilised to provide one L/UL bay for LGV to cater on-site refuse collection and general L/UL activities of the residential building, and to provide two car parking spaces for motorcycle (**Drawing A-9**).

- 1.5 The main uses by floor and FTF height of the current application (**Drawings A-8 and A-9**) are summarised as follows:

Floor	Main Uses	FTF Height
LG2/F	Lobby, E&M facilities, L/UL Bay for LGV & Motorcycle Parking Space	4m
LG1/F	Transfer Plate & E&M facilities	4.75m
G/F	Lobby & Clubhouse	4.8m
1/F – 25/F	Residential Flats	3.15m (1/F to 23/F) 3.5m (24/F to 25/F)
R/F	E&M facilities	-

- 1.6 Apart from the planning and design merits proposed in the previous rejected planning application No. A/H5/414 (including provision of setback from the Kennedy Road to improve visual quality and permeability; provision of landscaping at LG2/F to improve amenity of the ROW and at the site boundary along Kennedy Road (G/F) to enhance the streetscape; and provision of lighting on the ROW to improve the pedestrian environment proposed in the previous scheme), the applicants further propose to enhance the Spring Garden Lane staircase which is a pedestrian staircase connecting Kennedy Road and Spring Garden Lane, and to upgrade of the existing railing along Kennedy Road (**Drawing A-11**) in the current application. The Spring Garden Lane Staircase Improvement Proposal includes repairing and re-painting railings, installing grab rail for children, adding slip-prevention device, repairing cracks with granite stone accent, refurbishing landing floor finishes and replacing damage lamp post (**Drawing A-10**). The applicants will be responsible for the cost and implementation of the refurbishment works and will return the ownership to government for management and maintenance. The applicants also further propose to provide one L/UL bay for LGV and two car parking spaces for motorcycle in the current application. The provision of L/UL bay would roadside parking and improve road safety.

- 1.7 In support of the application, the applicants submitted the following documents:

- (a) Application Form received on 13.7.2022 (**Appendix I**)
- (b) SPS including architectural drawings, Spring Garden Lane Staircase Improvement Proposal and swept path diagrams received on 13.7.2022 (**Appendix Ia**)
- (c) Supplementary Information (SI) received on 20.7.2022 clarifying the typos in the SPS (**Appendix Ib**)

- (d) Further Information (FI) received on 19.8.2022 providing responses to departmental comments, revised section plan, master layout plan and plans related to the area of private open space and width of setback at G/F* (Appendix Ic)
- (e) FI received on 26.8.2022 providing revised floor plan, figures for Spring Garden Lane Staircase Improvement Proposal and on-site planning and design merits* (Appendix Id)
- (f) FI received on 1.9.2022 providing clarification on site coverage and GFA calculation* (Appendix Ie)

**exempted from publication requirements*

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in Section 5 of the SPS at **Appendix Ia** and FIs at **Appendices Ic to Ie**. They are summarised as follows:

- 2.1 The proposed 'Flat' use is a Column 1 use which is always permitted in "R(B)" zone and is fully in line with the planning intention of the "R(B)" zone. The proposed scheme focuses on demonstrating the applicants' effort to provide additional public planning and design merits which addresses the rejection reason for the previous application and provide the new L/UL bay for LGV and 2 motorcycle parking spaces to address the outstanding technical concerns from the Transport Department (TD) for the previous application.
- 2.2 It is not possible to fully accommodate the permissible domestic GFA within the 120mPD BHR as shown in the 2020 approved general building plans (GBPs), even with a less desirable FTF height of 3.05m, as the tower coverage has been maximised at 33.33%. Two additional storeys are necessary which will take the BH above 120mPD. The ROW has occupied about 50% of the Site such that the podium area cannot fully occupy the permissible site coverage under Building (Planning) Regulations. Hence, it is also impossible to reduce the height or bulk of the podium which is already highly constrained in terms of providing the necessary building features.
- 2.3 The proposal would utilise the scarce land resources in the metro area to provide maximum 75 flats (compared to 69 units in the approved GBPs) which would help contribute to the supply target for the 10-year period from 2022-23 to 2031-32.
- 2.4 The podium footprint at G/F would be reduced, giving up permissible site coverage to setback from Kennedy Road and to utilise the area for roadside planting. The setback can improve the visual openness along the road.
- 2.5 The proposed improvement works to repair and beautify the Spring Garden Lane staircase as a public planning gain (**Drawings A-10**), can substantially improve the safety, comfort and appearance of the street environment. The proposal also includes to beautify the ROW with repaving and addition of lighting and planting of tree and shrub along the two sides of the ROW. One new tree and a number of planters are provided at the ROW level, and the vegetation within the sunken area

will be maintained. Roadside vegetation will also be provided in the setback area at G/F along Kennedy Road to improve the pedestrian environment.

- 2.6 The proposed FTF height of at least 3.15m for each residential floor and 3.5m for the special units will be comparable with the market standard for modern healthy residential buildings. It will allow sufficient natural light and air ventilation for modern residential buildings to meet the needs for better quality housing and ventilation in the post-covid era. The special units at the two topmost storeys (24/F-25/F) are proposed to provide a diversity of units within the development and will have insignificant impact to the overall BH and technical impacts.
- 2.7 The proposed minor relaxation of 9.95m (+8.29%) will not result in an out-of-context building in the neighbourhood and considers compatible with the surroundings. A Visual Impact Assessment (VIA) conducted in previous planning application (No. A/H5/414) for the same minor relaxation of BHR to 129.95mPD. All assessed viewpoints demonstrate that the visual impact of the proposed minor relaxation is considered to be negligible. The VIA concludes that the proposed development will be compatible with the surrounding area and will not induce adverse visual impact.
- 2.8 The applicants propose one L/UL bay for LGV to cater for home removals, daily refuse collection and for logistics/delivery vehicles, in order to avoid the undesirable arrangement of on-street vehicle parking at Kennedy Road. Also, two motorcycle parking spaces will also be provided utilising the remaining corner space at the LG2/F. Regarding the traffic aspect, the small increase in traffic generation and attraction shall not cause any additional adverse traffic impact to the local road network.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was zoned “R(B)” on the draft Wan Chai OZP No. LH/35C which was exhibited for public inspection under section 7 of the Ordinance on 4.11.1977 and the zoning remains the same since then. The BHR of 120mPD for the subject “R(B)” zone was first imposed on the draft Wan Chai OZP No. S/H5/26 which was exhibited for public inspection under section 5 of the Ordinance on 24.9.2010. The BHR remains the same on the draft Wan Chai OZP No. S/H5/30 currently in force.

5. Previous Application

The Site is the subject of a previous application No. A/H5/414 for the same proposed minor relaxation of BHR from 120mPD to 129.95mPD for permitted flat use (**Plan A-1**) on the same site. On 21.1.2022, the Board rejected the application on review for the reason that the applicants failed to demonstrate strong planning and design merits to justify the proposed minor relaxation of BHR. On 29.3.2022, the applicants lodged an appeal to the Town Planning Appeal Board against the Board’s decision on rejecting the

application upon review. Hearing by the Town Planning Appeal Board are scheduled for 28 and 31 October and 16 November 2022.

6. Similar Application

There is no similar application for minor relaxation of BHR within “R(B)” zone within the Wan Chai OZP.

7. The Site and its Surrounding Areas (Plans A-1 to A-5)

7.1 The Site is:

- (a) located to the north of Kennedy Road and situated on a building platform at +36.9mPD (about);
- (b) can be accessed from Kennedy Road and by a pedestrian staircase to the west of the Site connecting Kennedy Road and Spring Garden Lane (**Plans A-3 and A-5**); and
- (c) currently under construction for foundation work.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly medium-density residential area with Government, institution and community (GIC) uses, including the Hong Kong Tang King Po College (+68.7mPD), the Church of Christ in China Wanchai Church (+32.2mPD) and Wanchai Church Kindergarten (+32.7mPD) to its west and northwest;
- (b) to its immediate north and west are residential developments namely Phoenix Court (+71.4mPD) and Wing Way Court (+143.1mPD) respectively;
- (c) to its south and further southeast across Kennedy Road on the Approved Mid-levels East OZP, are residential developments namely Amber Garden (+152.9mPD and +153.2mPD) and Bamboo Grove (ranging from +160.1mPD to +181.2mPD); and
- (d) to its further northeast and northwest down to the Queen’s Road East are commercial developments namely Wu Chung House (+137.5mPD) and Hopewell Centre (+220.2mPD).

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, to provide incentive for developments/ redevelopments with planning and design merits and to cater for

circumstances with specific site constraints, minor relaxation of BHR under section 16 of the Ordinance will be considered on its own merits and the relevant criteria for consideration of such application are as follows:

- (a) amalgamating smaller sites for achieving better urban design and local area improvements;
- (b) accommodating the bonus PR granted under the Buildings Ordinance (BO) in relation to surrender/dedication of land/area for use as a public passage/street widening;
- (c) providing better streetscape/good quality street level public urban space;
- (d) providing separation between buildings to enhance air and visual permeability;
- (e) accommodating building design to address specific site constraints in achieving the permissible PR under the OZP; and
- (f) other factors such as need for tree preservation, innovative building design and planning merits that would bring about improvements to townscape and amenity of the locality and would not cause adverse landscape and visual impacts.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises I.L. 1923 s.C ss.1 and I.L. 1923 s.C ss.2 (the Lots). The term of the Government Lease dated 11.1.1921 governing I.L. 1923 is 75 years renewable for 75 years commencing from 6.8.1912. Apart from the “non-offensive trades” clause, the said lease stipulates that “messuage or tenement erected or to be erected on the said ground shall be of European type and design and shall front and range in a uniform manner with the buildings (if any) immediately adjoining in the same Street, and the whole to be done to the satisfaction of the Director of Public Works”. The proposed private residential use does not conflict with the lease conditions.
- (b) The “Existing ROW” as shown on the Master Layout Plan at the Appendix 1 of the SPS at **Appendix Ia** is covered by a Deed of Covenant and Mutual Grant of Rights of Way registered in the Land Registry under Memorial No. 198862 dated 29.6.1955. The said Deed is an agreement made between owners of various private lots. The applicants should liaise with the concerned private lots owners to

sort out any issue relating to the concerned ROW for the proposed development.

- (c) The site area which includes the abovementioned “Existing ROW”, i.e. 715.7m² (about), has not been checked. The applicants should ensure that the proposed development is entirely within the Lots and would not encroach onto the adjoining government land. The applicants are advised to refer to LandsD Lands Administrative Office Practice Note Issue Nos. 4/2008 and 1/2017.
- (d) Regarding the proposal of improvement works for the staircase at Spring Garden Lane as mentioned in para. 4.1.6 of the SPS at **Appendix Ia**, the extent of the improvement works as shown in Figure 2.1 of the SPS at **Appendix Ia** largely falls within unleased and unallocated Government land being used as public road/street. TD and Highways Department (HyD) are deferred to comment on the proposal and sort out the implementation arrangement.

Traffic

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

- (a) No objection to the application subject to the following comments:
 - (i) The applicants proposed 1 L/UL bay for LGV and 2 motorcycle parking spaces, notwithstanding the severe site constraint that the Site is triangular in shape, and has a site area only 715.7m² where about 50% of which is occupied by the ROW as non-building area.
 - (ii) It is noted that the applicants had proposed a series of measures to ensure the road safety at the ROW. The applicants should ensure that all proposed measures would be in place prior to the occupation of the proposed development.
 - (iii) It is noted that the applicants would be responsible for the cost and implementation of the improvement works and would return the ownership to the government for management. It should be noted that any traffic facilities to be handed over to TD for management should be designed and constructed to the HyD’s latest standards and the latest standards of the “Transport Planning and Design Manual” (TPDM). Detailed design of the proposal should be submitted to TD and HyD for comment and agreement in later stage.
 - (iv) The applicants shall consider providing tactile warning strips to the Spring Garden Lane staircase in accordance with the TPDM under the applicants’ proposed improvement works.
- (b) Should the application be approved, the following condition is required:

- the submission and implementation of the Spring Garden Lane Staircase Improvement Proposal, as proposed by the applicant, to the satisfaction of C for T and the Director of Highways (D of Hy) or of the Board;
- no occupation of the residential development, subject to the implementation of the Spring Garden Lane Improvement Proposal, as proposed by the applicant, to the satisfaction of C for T and D of Hy or of the Board;

9.1.3 Comments of the Chief Highway Engineer/Hong Kong, HyD (CHE/HK, HyD):

- (a) Additional improvement measures should be considered. For example, tactile warning strips for people with visual impairment should be provided at the top, bottom and landings of the staircase in accordance with TPDM Volume 6 Chapter 8. Also, recessed cover and frame with matching cover should be used for all existing manholes on the staircase.
- (b) Detailed design of the Spring Garden Lane Staircase Improvement Proposal should be submitted to TD and HyD for comment and agreement in the later stage.
- (c) Any highways facilities to be handed over to this office shall be designed and constructed to the latest TD and HyD standards, including TPDM and HyD's standard drawings.
- (d) Reserve his comments on details of the Spring Garden Lane Staircase Improvement Proposal upon receipt of the detailed design from the applicants.

Urban Design and Visual

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

Urban Design and Visual Impact

- (a) The Site is located within an area of mixed use, with residential developments to its immediate north, west and southeast, Hopewell Centre and Wu Chung House to its further north and northwest, GIC uses to its further west and northwest, and a slope to its south. The BH of adjacent developments are ranging from about 30mPD to about 220mPD.
- (b) The applicants have proposed several design measures (**Drawings A-10 and A-11**), including setback at G/F from Kennedy Road to improve visual quality and permeability, provision of greenery at the site boundary along Kennedy Road, upgrade railings at Kennedy Road, provision of landscaped area and planters, repaving and provision of lighting to improve the amenity and pedestrian

environment at the ROW and repairing, beautification and improving the safety of the Spring Garden Lane staircase.

- (c) Judging from the proposal, the proposed relaxation of BHR will unlikely induce significant adverse visual impacts to the surrounding areas. The design measures, subject to the views of TD, would help enhance the amenity and pedestrian environment.

Landscape

9.1.5 Comments of CTP/UD&L, PlanD:

- (a) No adverse comment on the application.
- (b) Based on aerial photo of 2021, the Site is situated in an area of organic mixed urban landscape character surrounded by existing residential buildings and vegetated areas. According to Section 2.3 of the SPS at **Appendix Ia**, the Site is currently under construction for foundation work permitted under an approved GBPs. With reference to Table 4.1 of the SPS at **Appendix Ia**, the proposed development under this application involved a 25-storey building over a 3-storey podium for residential use, which is considered not incompatible with the landscape character of its surroundings.
- (c) With reference to Sections 2.4 and 5.5 of the SPS at **Appendix Ia**, no significant landscape resource/existing tree is found within the Site, significant adverse landscape impact arising from the proposed development is not anticipated.
- (d) It is noted in Appendix 2 of the SPS at **Appendix Ia** that, information on improvement proposal for Spring Garden Lane staircase is provided, which is located outside the application site boundary. The applicants are reminded to seek comment/advice from relevant department(s) regarding proposals outside the planning application site boundary.
- (e) With reference to the FI at **Appendix Ic**, open space provision under the proposed development failed to meet the Hong Kong Planning Standards and Guidelines (HKPSG) requirements (i.e. 1m² per person). The proposed scheme under this application does not comply with the standards for provision of open space as stipulated in the HKPSG.

Building Matters

9.1.6 Comments of the Chief Building Surveyor/Hong Kong East and Heritage, Buildings Department (CBS/HKE&H, BD):

- (a) No objection to the application.
- (b) No comment on Table 4.1 of the SPS at **Appendix Ia** under the BO.

- (c) Detailed comments on compliance with the BO and allied regulations will be given upon formal building plans submission.

Environment

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

- (a) No objection to the application from environmental planning perspective.
- (b) Given the close proximity to Kennedy Road which is a District Distributor, and the potential fixed source noise impact due to the planned plant room on the roof level of the proposed development upon surrounding existing noise sensitive receivers, it is considered to require a noise impact assessment (NIA) to demonstrate that the noise criteria for road traffic noise and fixed source noise under the Hong Kong Planning Standards and Guideline will be met and to identify the noise mitigation measures to be implemented.
- (c) The proposed redevelopment will result in considerable increase in sewage generation as compared with that from the original existing building (i.e. a low-rise Lung On Building) of the Site and will have potential sewerage impact on the existing small diameter receiving public sewers nearby the Site. It is considered to require a sewerage impact assessment (SIA) to address the potential sewerage impact and to identify any necessary sewerage upgrading/mitigation work for implementation.
- (d) Should the application be approved, the following conditions are required:
 - the submission of a NIA and implementation of the proposed noise mitigation measures identified in the NIA to the satisfaction of the DEP or of the Board;
 - the submission of a SIA to the satisfaction of the DEP or of the Board; and
 - the implementation of local sewerage upgrading/sewerage connection works as identified in the SIA to the satisfaction of the Director of Drainage Services or of the Board.

Drainage

9.1.8 Comments of the Chief Engineer/Hong Kong & Islands (CE/HK&I), DSD:

- (a) No comment from drainage viewpoint.
- (b) Noting that EPD requires the incorporation of the SIA as one of the approval conditions, the applicants shall supplement the SIA for checking and meet the full satisfaction of EPD.

Water

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

- (a) No objection to the application.
- (b) Noted that there are some existing fresh water mains within and in the vicinity of the Site and are affected by the proposed development. Free access should be allowed for WSD at any time to carry out operation and maintenance of these water mains. In case the project proponent considers that diversion of these water mains is required, they should study the feasibility of diverting these water mains. If diversion is considered feasible, the project proponent should submit their proposal for WSD's consideration and approval. The diversion work shall be carried out by the project proponent at their own cost to the satisfaction of WSD. WSD will only carry out the connection works to the existing network and the associated connection cost should be borne by the project proponent.

District Officer's Comments

9.1.10 Comments of the District Officer (Wan Chai), Home Affairs Department:

His office has not received any comment on the application.

9.2 The following departments has no comment on the application:

- (a) Chief Architect/Central Management Division 2, Architectural Services Department;
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) Executive Secretary of Antiquities and Monuments, Development Bureau;
- (d) Director of Electrical and Mechanical Services;
- (e) Director of Fire Services; and
- (f) Commissioner of Police.

10. Public Comments Received During Statutory Publication Periods

- 10.1 On 22.7.2022, the application was published for public inspection. During the statutory public inspection period, 61 public comments objecting to the application were received (samples at **Appendix III**). A full set of public comments received on the application is deposited at the Town Planning Board Secretariat for Members' inspection and reference.
- 10.2 The objecting comments were submitted by a Wan Chai District Council member, the Incorporated Owners of Amber Garden, the Incorporated Owners of Phoenix Court, Kennedy Road Protection Group and 55 locals and individuals. The major grounds of objection are summarised below:
 - (a) the proposed increase in FTF height of the proposed development is not justified and does not benefit the community. The developer could achieve

the FTF height by amending the number of storeys or implement the schemes of approved GBPs;

- (b) the proposed BH is too excessive and should not be counted as a minor increase. It will create wall effect to the neighbourhood;
- (c) the proposed development will obstruct the views of neighbouring residential buildings and lower the living standards of residents living in the surrounding community;
- (d) the proposed development will generate adverse traffic impact and overload the nearby traffic network as it will increase traffic flow. The proposed development will increase the usage of the ROW, leading to vehicular-pedestrian conflicts and the blockage of emergency vehicle access;
- (e) the proposed development will generate adverse environmental impacts including noise, air and sewerage impacts to the surrounding areas;
- (f) approval of the application would set a bad precedent for other similar cases;
- (g) as reflected in the Ship Street staircase related to the Hopewell Centre II development, improvements to the staircase would strip off its heritage values and the existing atmosphere; and
- (h) the application does not have a meritable difference from the previous rejected application (No. A/H5/414). The Board should have the authority not to entertain the new/review applications and processing this application is a waste of government resources.

11. Planning Considerations and Assessments

- 11.1 The application is for minor relaxation of BHR from 120mPD to 129.95mPD (+8.29% in terms of mPD or +11.97% in terms of actual BH) for a proposed 28-storey residential development at the Site. According to the applicants, the increase in BH is to accommodate all of the permissible GFA whilst achieve a FTF height of 3.15m for the typical residential floor.
- 11.2 The Site is the subject of a previous application No. A/H5/414 for the same proposed minor relaxation of BHR from 120mPD to 129.95mPD for permitted flat use (**Plan A-1**) on the same site by the same applicants. The previous application was rejected by the Board on review for the reason that the applicants failed to demonstrate strong planning and design merits to justify the proposed minor relaxation of BHR. Having reviewed the ground for rejection, the applicants have proposed additional planning and design merits to support the proposed minor relaxation of BH of 9.95m.
- 11.3 Whilst similar planning and design merits under the previous application No. A/H5/414 (such as lighting on the ROW and landscaping at LG2/F and at the site boundary along the Kennedy Road; and provide setback at G/F from the Kennedy Road) are proposed to improve the pedestrian environment, the applicants have further proposed to beautify and improve the safety of the Spring Garden Lane staircase and to upgrade the existing railing along the Kennedy Road. The

proposed improvement works of the Spring Garden Lane staircase connecting the Kennedy Road and the Spring Garden Lane includes repairing and re-painting railings, installing grab rail for children, adding slip-prevention device, repairing cracks with granite stone accent, refurbishing landing floor finishes and replacing damage lamp post (**Drawing A-10**). These improvement works could improve pedestrian environment and enhance the safety of the old staircase. Although the aforementioned staircase is outside the Site, the applicants would be responsible for the cost and implementation of the improvement works and would return the ownership to the government for management. C for T and CHE/HK, HyD have no objection to the proposed improvement works. It is considered that the proposed improvement works, especially the proposal to improve the Spring Garden Lane staircase, are planning and design merits to justify the minor relaxation of the BHR. The application therefore meets the criteria, i.e. providing better streetscape, for minor relaxation BHR as highlighted in paragraph 8.2 (c) above.

- 11.4 In the current application, the concerns from C for T on the previous application regarding the nil provision of internal transport facilities (except one disabled car parking space) have also been addressed. The applicants have proposed a new L/UL bay for LGV and 2 motorcycle parking spaces in the current application which is also considered as planning merits. The function of the L/UL bay will not only serve the general L/UL activities of the residential building but also regular daily refuse collection. C for T has no objection to the proposal.
- 11.5 The visual impact of the proposed development (the same BH of 129.95mPD) has been demonstrated in the VIA submitted by the same applicants in the previous application (No. A/H5/414). Both CTP/UD&L, PlanD and CA/CMD2, ArchSD have no adverse comments on the application from the visual perspective. Other relevant departments including DEP, CE/HK&I DSD, CBS/HKE&H and H(GEO), CEDD, have no adverse comment on the application. To address technical concerns from the government departments, relevant approval conditions are recommended in paragraph 12.2 below, should the application be approved by the Board.
- 11.6 Regarding the adverse public comments, the planning considerations and assessments in paragraphs 11.2 and 11.5 above, and the departmental comments in paragraph 9 above are relevant. Regarding the public comments on the Board's authority not to entertain the new/review application, it should be noted that the Town Planning Ordinance has no provision on not processing application on the same site even though they are from the same applicants and the same minor relaxation of BH. Moreover, the current application with similar development parameters as compared with the previous application, has provided new planning and design merits and justifications. The Board should consider each cases on the basis of individual merits.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, PlanD has no objection to the application.

- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.9.2026, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of the Spring Garden Lane Staircase Improvement Proposal, as proposed by the applicant, to the satisfaction of Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (b) in relation to (a) above, no occupation of the residential development, subject to the implementation of the Spring Garden Lane Improvement Proposal, as proposed by the applicant, to the satisfaction of Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (c) the submission of a Noise Impact Assessment (NIA) and implementation of the proposed noise mitigation measures identified in the NIA to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (d) the submission of a Sewerage Impact Assessment (SIA) to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (e) in relation to (d) above, the implementation of local sewerage upgrading/sewerage connection works as identified in the SIA 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

The applicants fail to demonstrate strong planning and design merits to justify the proposed minor relaxation of building height restriction.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.

- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix I	Application Form received on 13.7.2022
Appendix Ia	SPS received on 13.7.2022
Appendix Ib	SI received on 20.7.2022
Appendix Ic	FI received on 22.8.2022
Appendix Id	FI received on 26.8.2022
Appendix Ie	FI received on 1.9.2022
Appendix II	Previous Application
Appendix III	Samples of Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawings A-2 to A-7	Floor Plans
Drawing A-8	Section Plan
Drawing A-9	LG/2 Floor Plan showing Internal Transport Facilities
Drawing A-10	Summary of Spring Garden Lane Staircase Improvement
Drawing A-11	On-site Planning and Design Merit
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 to A-5	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2022**