

Town Planning Task Force

Introduction

This paper outlines the responses of the Planning Department (PlanD) to the comments and suggestions made by members on the planning application and plan-making processes.

Planning Application

Excessive details

2. Concerns were raised on the excessive details required for section 16 applications which might result in submission of amendment applications later on. It is true that in some cases, very detailed information was required in support of the planning application. However, this is the exception rather than the rule. Over the past years, the Town Planning Board (TPB) has made much endeavour to streamline the development process, e.g. TPB Guidelines were prepared to provide guidance for submission of planning applications. In this respect, TPB Guidelines PG-No. 27 and PG-No. 18A set out the guidelines to simplify the form and contents of concept plans and Master Layout Plans for submission to the TPB. However, it is often difficult to set hard and fast rules for all cases. For instance, submission of layout plans for hotel development is required to demonstrate that the proposal is for genuine hotel use and not residential use developed in the name of a hotel, which may have different planning implications, such as demand on traffic, infrastructure and provision of open space and community facilities.

3. On landscape submission, we are currently reviewing the Joint Practice Note No. 3 to further refine the scope of landscaping proposal. The stakeholders will be consulted in due course.

4. The planning application process is further streamlined under the amended Town Planning Ordinance (TPO) which has eliminated the need for further approval from the TPB for Class A amendments and adopted simplified procedures for processing applications for Class B amendments. If no objections have been received from concerned departments, Class B amendments will be approved by the Director of Planning under delegated authority within six weeks. We are in the process of reviewing the list of

Class A and Class B amendments and have started to collect views from the key stakeholders. Comments of the Task Force and the Business Facilitation Advisory Committee will be considered in the review.

Planning conditions

5. Some members were concerned that in imposing planning conditions, the TPB should consider whether the conditions were reasonable and whether they could effectively be discharged. It was suggested that there should be regular inter-departmental meetings to help resolve departmental conflicts with a view to helping the applicant to discharge the conditions within a clear time frame.

6. In practice, planning conditions are imposed by the TPB on the basis of three main principles. They must be planning-related, directly related to the development and reasonable. If the applicant is not satisfied with any of the planning conditions, he has a right to seek review and appeal under the TPO.

7. There is an existing arrangement within PlanD for holding District Planning Conferences (DipCons) which are chaired by the relevant Assistant Director of PlanD and attended by representatives from various departments. The main purpose of the Conference is to resolve problems in the processing of individual planning projects and proposals. To address the trade's concern, PlanD would consider making better use of this existing mechanism by scheduling regular DipCon meetings and reviewing the level of representations from departments as appropriate. If there are any major problems in relation to compliance with planning conditions that could not be resolved at inter-departmental level, the case could be submitted to the TPB for consideration.

Guidelines/practice notes

8. Members suggested that a liaison group or web forum should be set up for reviewing and discussing problems and concerns before promulgation of any new practice notes or guidelines. In fact, it is our practice to consult the Planning Sub-committee of the Land and Building Advisory Committee (LBAC) on new planning practice, procedures and guidelines. The LBAC sub-committee is represented by all related professional institutes and the Real Estates Developers Association of Hong Kong (REDA). Depending on the nature of the Guidelines, public forums may also be held to solicit views from more stakeholder groups. Taking the eight sets of TPB

Guidelines for implementation of the amended TPO as an example, we had consulted the LBAC sub-committee and held a public forum as well as separate briefings to the professional institutes, REDA, Heung Yee Kuk and various District Councils prior to the promulgation of the guidelines and the commencement of the amended TPO. Unless the guidelines or practice notes are simply giving factual explanation of the statutory requirements (e.g. the Practice Notes on the Basis for Determining Class A and Class B Amendments) or stating requirements of other authorities/departments (e.g. the long-established guidelines of the Fire Services Department on limits on commercial floor space in industrial buildings), and there is an urgency to inform the public about the new practice or requirement, we will consult the stakeholders before promulgation of any guidelines or practice notes. Guidelines and practice notes will be reviewed from time to time to take into account feedbacks and changing circumstances.

PlanD's role in section 17 review

9. There was a concern on PlanD's role in giving professional advice to the TPB. In cases where the Planning Committee's (PC's) decision at section 16 stage departed from PlanD's recommendation, members suggested that PlanD should maintain its independent professional view.

10. For section 17 review, both the PC's decision and PlanD's view are clearly stated in the paper for consideration by the TPB. There could be cases where in the light of new information submitted by the applicant or comments made at the PC meeting, PlanD's view might be different at section 17 stage. Consideration would be given to stating more clearly PlanD's stand, whether it is the same or different from the view expressed at section 16 stage.

Public comments on Planning applications

11. Some members considered that time for responding to public comments on planning applications was insufficient and suggested that the public comments be passed to the applicants once received. Whilst it is provided in the amended TPO that the public comments received by the TPB should be made available for public inspection as soon as reasonably practicable after the expiration of the three-week comment submission period, the Department of Justice (DoJ) has advised that it is legally proper for the TPB to release the comments for public inspection before the expiration of the three-week period. However, in accordance with the legislative intent of the amended TPO, the comments should be released to the public at large and not

to the applicant alone. We would consider making the comments available for public inspection at the PlanD's Public Enquiry Counters as soon as they are received. As in current practice, the public will be informed on the TPB's website when the comments are available for public inspection.

Plan-making Process

Further representations to amendments proposed by TPB

12. Members were concerned that after the hearing of representations/comments, the TPB might propose amendments which were not initiated by the "representers"/"commenters", and under the amended TPO, the original "representers"/"commenters" did not have the right to make any further representations. It was only if adverse further representations were received that the TPB would hold a second hearing at which the original "representers"/"commenters" would be entitled to attend and be heard.

13. One of the main objectives of the amended TPO is to streamline the procedures whilst enhancing the transparency and openness of the planning system. For plan-making, all representations are published for comments and all "representers"/"commenters" are entitled to be heard so that the TPB can take into account all supportive and opposing views before making its decision on whether to amend the plan to meet the representations. The publication of the TPB's proposed amendments for further representations is to inform the public of the changes so that those who are not involved in the first round of hearing could submit their views to the TPB. It is not necessary to hold a second hearing if no adverse views on the proposed amendments are received at this stage as the views of the original "representers"/"commenters" have already been heard and taken into account by the TPB in making its decision on the proposed amendments.

14. Under the TPO, only those proposed amendments which are directly related to the representations would be published under section 6C of the amended TPO (similar to section 6(7) of the pre-amended TPO). All other amendments which are not directly related to the representations, albeit proposed as a result of hearing the representations, will be published under section 7, and any person may then submit representations on the amendments.

Submission of draft plan to Chief Executive in Council for approval

15. There were concerns on the delay in submission of the draft plan to the Chief Executive in Council (CE in C) for approval in case of further amendments gazetted by the TPB under section 7 as the nine-month statutory period would start afresh. Development on sites which were the subject of objections/representations would be held up. Members suggested that the first batch of amendments should be submitted for approval before gazetting the next batch of amendments and that after the submission by TPB, there should be a time limit or performance pledge for CE in C to consider the draft plan.

16. In normal circumstances, a draft plan will be submitted to the CE in C for approval upon completion of the representation consideration process, which is required under the TPO to be completed within nine months (or a further maximum period of six months upon approval by the CE). However, Hong Kong is a dynamic city. There are cases that even before the completion of the representation consideration process, further amendments to the draft plan are required. It would sometimes not be practicable to withhold the gazetting of the further amendments until the objections/representations were cleared by the CE in C. We are mindful of the possible delay in implementation of development if the site is subject to objections, and will endeavour to submit the draft plan to the CE in C as early as possible. Should further amendments to the plan be inevitable, thus causing delay to the submission of the representations to the CE in C for consideration, we would inform the concerned parties of the reasons.

17. Upon submission of a draft plan to the CE in C, a decision on the draft plan would normally be made within six weeks unless under very special circumstances. There is no time limit for a decision to be made by the CE in C under the TPO and we cannot dictate the agenda of the CE in C.

Other Issues

18. As regards issues relating to the membership of the TPB and the appointment of legal adviser to the TPB, members' views will be relayed to the Administration for consideration.