

CB(1)1205/04-05(01)

Town Planning Board Guidelines for Implementation of Town Planning (Amendment) Ordinance 2004

April 2005

Background

7 July 2004

TP(A) Bill 2003 passed by LegCo

Sept-Dec 2004

- Public consultation (8 new TPB Guidelines + fee proposals)
- Public forum on 19 Oct (94 participants)
- 14 briefing sessions to stakeholder groups (including LBAC, REDA, professional institutes, DCs, HYK & open storage trade operators)
- 26 written submissions received

Background (cont'd)

4 Feb 2005

- TPB was briefed on consultation outcome and proposed amendments to take into account public comments
- TPB endorsed the 8 sets of revised Guidelines

22 Mar 2005

- PLW Panel was briefed on consultation outcome
- Panel decided to hold a special meeting to discuss the 8 sets of new TPB Guidelines

8 New TPB Guidelines (Nos. A to D)

- No. A - Submission & publication of representations/ comments/further representations relating to plan-making process
- No. B – Publication of planning applications and submission of comments
- No. C – “Owner’s consent/notification” requirements for planning applications
- No. D – Submission of further information for planning applications

8 New TPB Guidelines (Nos. E to H)

- No. E – Deferment of decisions on representations/ comments/further representations relating to plan-making process & planning applications
- No. F – Renewal of planning approval & extension of time for compliance with planning conditions for temporary use/development
- No. G – Extension of time for commencement of development
- No. H – Class A & Class B amendments to approved development proposals

No. A - Submission & Publication of Representations/ Comments/Further Representations Relating to Plan-making Process

Submission Requirements for Representations/ Comments/Further Representations

- must be made within statutory time limit
- must provide essential information, including:
 - ♦ the subject matter
 - ♦ nature of representations/further representations
 - ♦ reasons

No. A - Submission & Publication of Representations/ Comments/Further Representations Relating to Plan-making Process (cont'd)

Publication Arrangement

- statutory requirements
 - ♦ *to advertise once a week in two daily Chinese newspapers & one English newspaper*
- administrative measures
 - ♦ *to post notice at TPB Secretariat, PlanD, DO & RC*
 - ♦ *TPB's website*

No. A - Submission & Publication of Representations/ Comments/Further Representations Relating to Plan-making Process (cont'd)

Publication Arrangement (cont'd)

- representations, comments & further representations will be available for public inspection at **Planning Enquiry Counters (PECs) of PlanD** until CE in C has made a decision on the draft plan
- except names, personal data **not** for public inspection

No. B - Publication of Planning Applications & Submission of Comments

Applications Requiring Publication

S.12A → amendment of plan

S.16 → permission

S.17 → review of TPB's decision under s.16

Publication Arrangement

- statutory requirement : newspaper notice **or** site notice
- proposed practice : newspaper notice **and** site notice

UNLESS

- ♦ case involves large area/many buildings;
- ♦ site is remote & inaccessible to the public;
- ♦ case which is not site-specific; **or**
- ♦ posting of site notice is refused by concerned parties

No. B - Publication of Planning Applications & Submission of Comments (cont'd)

Publication Arrangement (cont'd)

- size of site notice

- ♦ *indoor* : A2
- ♦ *open land* : A1
- ♦ *territorial/major local significance* : about 33" x 60"
(roadside railing)

- additional administrative measures

- ♦ *upload notice to TPB's website*
- ♦ *posting notice at TPB Secretariat, PlanD, DO & RC*
- ♦ *send notice to all OCs & management offices within 100ft from boundary of application site*
- application available for public inspection at **PECs of PlanD** until TPB has made a decision
- except name of the applicant, personal data **not** for public inspection

No. B - Publication of Planning Applications & Submission of Comments (cont'd)

Submission of Comments

- must submit within statutory time limit & include essential information
- comments available for public inspection at PECs of PlanD until TPB has made a decision on the application
- except names of "commenters", personal data not for public inspection

No. C - "Owner's Consent/Notification" Requirements for Planning Applications

Interpretation of "Current Land Owner"

Any person whose name is registered in the Land Registry (LR) as that of an owner of the land to which the applications relate **6 weeks before** the application is made

No. C - "Owner's Consent/Notification" Requirements for Planning Applications (cont'd)

Requirements

For every "current land owner", the applicant must meet:

- the "owner's consent" requirement; **or**
- the "owner's notification" requirement; **or**
- the "reasonable steps" requirement

Validity Period for Consent/Notification

- depends on circumstances of each case, taking into account applicant's justification
- normal case: **1 year**

No. C - "Owner's Consent/Notification" Requirements for Planning Applications (cont'd)

"Reasonable Steps" Requirement

applicable to cases of which:

- ♦ *applicants cannot contact the owners due to absence/inadequacy of relevant information at LR; **or***
- ♦ *the no. of owners involved is large (>50)*

No. C - "Owner's Consent/Notification" Requirements for Planning Applications (cont'd)

"Reasonable Steps" Requirement (cont'd)

Steps may be taken

- (a) to send request for consent to every owner; **or**
- (b) (i) to publish notice once in **two Chinese newspapers & one English newspaper; and**
 - (ii) to post notice in a prominent position on/near application site; **or**
to send notice to concerned OC, Owners' Committee, MAC, management office or RC (where applicable)

No. C - "Owner's Consent/Notification" Requirements for Planning Applications (cont'd)

Applications Exempted from newspaper notices

- application for change of use within existing building
- application for temporary use
(application site less than 1 ha)
- application for New Territories Exempted House/Small House development

must take the two steps of notification specified under **(b)(ii)**

No. D - Submission of Further Information for Planning Applications

Possible Scenarios

- further information (FI) constitutes "material change" will not be accepted
- FI not constituting "material change":
 - ♦ *will be accepted & published for public inspection & comments (time limit for consideration will be restarted); **or***
 - ♦ *will be accepted & available for public inspection (time limit for consideration will not be restarted)*

No. D - Submission of Further Information for Planning Applications (cont'd)

FI constituting "material change"

- a matter of fact & degree
- assess on individual merits of each case
- a change in proposed plot ratio/GFA/site coverage/building height exceeding 10% would be considered as "material" change

FI exempted from public comments

- minor change in proposed scheme
(not involving major development parameters)
- clarification of background information
- technical clarifications/responses to Gov't departments' comments
- rectification of editorial & transcript errors

No. E - Deferment of Decisions on Representations/ Comments/Further Representations Relating to Plan-making Process & Planning Applications

Request Requirements

- in writing
- with definite deferment period and supported by reasonable grounds

Supporting Reasons

- need to consult relevant Gov't department(s);
- need to submit important supplementary information; or
- awaiting recommendations of Gov't planning-related study/infrastructure proposal

No. E - Deferment of Decisions on Representations/ Comments/Further Representations Relating to Plan-making Process & Planning Applications (cont'd)

Deferment Period Allowed

- for s.12A/16/16A(2) applications & s.17 review
 - ♦ *normal case: 2 months (to allow for submission of supplementary information to TPB)*
- for representations/comments/further representations relating to plan-making process
 - ♦ *request would not be entertained unless with very strong reasons & consent of other concerned parties*
 - ♦ *4 weeks if absolutely unavoidable*
- no further deferment would be granted unless under very special circumstances

No. F - Renewal of Planning Approval & Extension of Time for Compliance with Approval Conditions for Temporary Use/Development

Application for Renewal of Approval

- streamlined processing procedure
- should be made at least **2 months** before expiry of the approval
- will be processed in accordance with **s.16** of the Ordinance *(including publication for public inspection & comments)*

Application for Extension of Time for Compliance with Conditions

- a kind of application for **Class B** amendments under **s.16A(2)**
- should be made at least **6 weeks** before expiry date

No. G - Extension of Time for Commencement of Development

Application Procedure

- a kind of application for Class B amendments under s.16A(2)
- should be made at least 6 weeks before expiry date

The extension period under application shall not be longer than the original duration for commencement of the approved development proposal

No. H - Class A and Class B Amendments to Approved Development Proposals

Types of Amendments

- Class A: further application not required
- Class B: subject to approval of TPB upon s.16A(2) application
- list of categories to be published in Government Gazette is attached at **Annex 1 of the Guidelines**

- *End* -