
Discretionary Approval – Factors for Consideration

From time to time, the Building Authority (BA) needs to exercise his discretion in approving or rejecting a submission. When exercising his discretion, the BA should take into account all consideration relevant to the particular application. While it is acknowledged that what is relevant depends on the application and its circumstances, the following should be considered in formulating recommendations :-

1. Government policy, public interest, objective of policy.
2. Town Plan restrictions, recommended standards or guidelines stipulated in the relevant HKPSG or Development plans.
3. Lease restrictions.
4. Statutory provisions and legal principles particularly those on which advice from S for J is available or which can be inferred from JR/Court/Appeal precedents.
5. Special circumstances of the case including the case history, reasonable expectation of the developer/AP, any previous disapprovals or approvals for the case or similar cases.
6. Special characteristics of the site affecting the planning, architectural, engineering or construction aspects of the proposed development.
7. Views of other government departments.
8. Effect of the development on the adjoining sites and the district.
9. Fairness.

Ref. : BD GP/OA/28

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