

Follow-up to meeting on 29 February 2008

Q1: What options are available legally to preserve the buildings and the adjoining land within Rural Building Lot No. 324, No. 128 Pok Fu Lam Road, Hong Kong together with all structures erected on such land (the Building)?

A1: Under the Antiquities and Monuments Ordinance (the “Ordinance”) (Cap. 53), the Authority may declare a building as a proposed monument. If the Authority considers it justified to declare a building as a monument under the Ordinance, the Authority can declare it as a monument whether or not it was declared as a proposed monument before.

For the case in question, the proposed monument declaration was to give the Building temporary statutory protection from demolition and allow time for the Authority to consider in a comprehensive manner whether it should be declared as a monument. Subsequent to its declaration as a proposed monument, the Antiquities and Monuments Office (AMO) has, after completion of a comprehensive assessment of the heritage value of the Building, recommended to the Authority that the Building should not be declared as a monument and that its proposed monument declaration should therefore be withdrawn. The Secretary for Development, in her capacity as the Authority under the Ordinance, has accepted the recommendation. She has already decided to withdraw the proposed monument declaration and does not intend to declare the Building as a monument. The withdrawal notice, which was published on 1 February 2008, took effect at the beginning of the day on which it was published (see section 28(3)(a) of the Interpretation and General Clauses Ordinance (Cap. 1)).

Under the Ordinance, the duration of a proposed monument declaration within private land (i.e. for a period of 12 months) cannot be extended. While it is unlikely that the Authority would declare a building twice as a proposed monument under section 2A of the Ordinance, there appear no specific provisions under the Ordinance prohibiting her from doing so should she consider necessary and justifiable in all circumstances of the case. That said, as the Authority has considered in the present case to withdraw the proposed monument declaration, there would unlikely be justifiable grounds for her to seek to declare the Building as a proposed monument again under section 2A of the Ordinance or as a monument under section 3 of the Ordinance.

Since the declaration of the Building as a proposed monument, the owners have sought meetings with Government particularly upon the announcement of the new heritage conservation policy. Government is pleased to note that the owners have voluntarily come up with plans to preserve the building while allowing development to proceed on site. Although the Building would not be declared as a monument, the owners have no intention to alter their “preservation-cum-development” plan.

The scheme, as it now stands, would involve new residential buildings adjacent to the Building, which will be preserved as a clubhouse for residents and open to the public at certain time. The owners have already filed a rezoning application to implement the redevelopment scheme, and the rezoning application is scheduled to be considered by the Metro Planning Committee (MPC) of the Town Planning Board (TPB) on 28 March 2008. Should the rezoning application be approved by the TPB, an amendment to the relevant OZP will be made and the new zoning can include a provision to guard against demolition of the Building through the planning permission system. Also, if the lease modification for the proposed redevelopment scheme is subsequently approved by the Lands Department (subject to such terms and conditions as Government considers appropriate including payment of full market value premium), the preservation of the Building will be included as a condition for such approval.

Q2: Why an independent expert has not been appointed to assess the heritage value of the Building? As the AMO has undertaken the assessment by itself, what kind of expertise is required for such assessment and why AMO is considered capable of undertaking the task?

A2: AMO is the executive arm of the Authority carrying out the functions, among others, to deal with matters relating to the research, identification, examination and preservation of historical buildings and archaeological sites in Hong Kong. AMO is headed by its Executive Secretary (a Chief Curator) and comprises professional staff (including 36 curator grade officers), most of them have acquired relevant post-graduate professional qualifications and training on heritage conservation from local and overseas universities. They are all experts in the related fields of heritage conservation.

In undertaking the above duties and responsibilities, AMO may, depending on the merits/complexity of the case, carry out the assessment by in-house experts and/or engage outside experts to perform the task. In discharging the professional duty of AMO for this particular case, as staff of AMO have sufficient professional knowledge and expertise in assessing the historical and architectural significance of the Building,

there was no need to commission any independent expert to undertake the task.

Q3: Which members of the Antiquities Advisory Board (AAB) had visited the Building and when was the visit conducted? What was the information provided to them to facilitate their understanding and assessment of the heritage value of the Building and when was it provided? Whether any discussions had been held with these members after the visit; and if so, the details of the discussions?

A3: The AMO organised a visit for members of the AAB on 16 November 2007. Invitation was issued to all members, and 12 of them attended the visit. The purpose of the site visit was to enable AAB members to have a better understanding of the case, and in particular, to provide AAB members with an opportunity to observe the architectural characteristics of the Building.

After the visit and the completion of the comprehensive assessment of the heritage value of the Building, the AMO issued a discussion paper to the members of the AAB before the meeting of the AAB on 25 January 2008. The paper contains detailed assessment of the heritage value of the Building from a range of aspects (historical value, architectural value, authenticity, rarity, integrity and social value).

At the meeting of the AAB on 25 January 2008, the AMO briefed AAB members in detail about its heritage assessment on the Building. After discussion, members unanimously supported the Authority's intention not to declare the Building as a monument and to withdraw the proposed monument declaration for the Building. At the same AAB meeting members also accorded a Grade III status to it under its administrative grading system.

Q4: Whether the Grade III status accorded to the Building by AAB can be reviewed?

A4: The Grade III status has been granted to the Building by the AAB after examination of its heritage value at its meeting on 25 January 2008, just slightly over a month ago. We will pass the suggestion for a review to the AAB for its consideration.

Q5: In addition, to the on-site inspections of the Building, what other actions have been taken by the Administration between the period after the declaration of the Building as a proposed monument on 20 April 2007 and before the withdrawal of the declaration on 1 February 2008? Whether the Administration had held any discussion with the owners of the Building, and if so, what were the outcomes?

A5: As set out in paragraph 7 of the LegCo Brief, since the declaration of the Building as a proposed monument on 20 April 2007, the Government and the owner have been discussing the matter. Since announcement of the Government's new heritage conservation policy in October 2007, including, inter alia, the provision of economic incentives to encourage private owners to preserve historic buildings, the Government and the owner have also discussed possible options for the preservation of the Building. As a result of several rounds of discussions with the owners, the Government is pleased to note that the owners have indicated that they would consider preserving the Building in a redevelopment scheme.

Q6: Whether any loopholes in the existing policy on heritage preservation have been revealed concerning the declaration of the Building as a proposed monument and the subsequent withdrawal of the declaration? If the answer is "yes", what are they? If the answer is "no", why?

A6: In the course of the declaration of the Building as a proposed monument and the subsequent withdrawal of the declaration, we do not consider that there exists any "loophole" in the heritage conservation policy. The whole process has been undertaken in a professional manner. The power of the Authority under the Ordinance to make proposed monument declaration has adequately given the Building temporary statutory protection from demolition and allowed time for the Authority to consider in a comprehensive manner whether it should be declared as a monument. The declaration of a building to be a monument requires a high threshold of the building's historical significance based on findings of the comprehensive assessment of the heritage value. In the present case, the Building was not declared as a monument as its historical significance has not reached the high threshold required.

Q7: Information on the rezoning application filed by the owners of the Building to the Town Planning Board.

A7: The existing site has an area of about 6,440 square metres. The Gross Floor Area of the Building is about 1,340 square metres (i.e. plot ratio of about 0.21). The site is located within the approved Pok Fu Lam Outline Zoning Plan (OZP) No. S/H10/15 and is zoned "Residential (Group C)"

("R(C)"). Under the Pok Fu Lam OZP, a maximum plot ratio of 3 would be permitted for "R(C)" in general (depending on the number of storeys for domestic use), although whether the existing site would be allowed for development up to plot ratio 3 would be subject to consideration by the TPB. Under the existing lease of the site, there is a restriction of one European-type house of building height not exceeding 35 feet (i.e. 10.668 metres). The development of the site is subject to the restrictions of the Pok Fu Lam Moratorium.

The owners have filed on 15 January 2008 an application to TPB to rezone the site and the adjacent area from "Residential (Group C)" ("R(C)") and "Green Belt" ("GB") to "Other Specified Uses" ("OU") annotated "Residential Development with Historical Building Preserved" under two alternatives. It has put up four redevelopment options –

Alternative A – to rezone the site from "R(C)" to "OU"

- (a) Option 1 – the Building would be demolished and three buildings (of 18 storeys* each) would be built;
- (b) Option 2 – the Building would be preserved and three buildings (of 13, 23 and 27 storeys* each) would be built within the existing site;

Alternative B – to rezone the site and an adjacent area from "R(C)" and "GB" respectively to "OU"

- (c) Option 3 – the Building would be preserved and four buildings (of 12, 12, 20 and 20 storeys* each) would be built in the existing site and the extension to adjacent government land which is currently zoned "GB"; and
- (d) Option 4 – the Building would be preserved and four buildings (of 10, 10, 16 and 16 storeys* each) would be built in the existing site and the extension to adjacent government land which is currently zoned "GB".

* on top of a 3-storey podium

Under all of the above options, a total of 102 residential units (with a total Gross Floor Area of about 19,320 square metres) would be constructed. While the owners had put forward different detailed technical options on the rezoning for consideration by the TPB, the owners have set out in the conclusion section of the rezoning application that this application proposes a positive way for preserving the Building and for providing the owner with a suitable form of residential development, and it is hoped that TPB will accept the proposed rezoning as the best way to move forward. The owners have indicated in its rezoning application that their preference is Alternative A Option 2 within the boundaries of the existing lot which does not involve any land exchange.

The rezoning application has been published for public inspection on 25 January 2008, and will be submitted to the MPC of the TPB for consideration on 28 March 2008. The Development Bureau had commented on the rezoning application. We welcome the act of the owner of the Building in making this rezoning application, which has put forward options for “preservation-cum-development”. We consider that such options for “preservation-cum-development” should be supported in principle, as long as the necessary approvals could be sought from the relevant authorities in accordance with the established rules and procedures as well as the prevalent development controls. Among three preservation options, Option 2 does not involve any additional government land and encroachment upon the Green Belt and is therefore more preferable than Options 3 and 4 (which involve encroachment upon the Green Belt).

Development Bureau
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