

**Extract from the minutes of meeting of the
Panel on Development on 19 December 2008**

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V Measures to foster a quality and sustainable built environment

(LC Paper No. CB(1)396/08-09(05) -- Administration's paper on "Public Engagement on Measures to Foster a Quality and Sustainable Built Environment"

LC Paper No. CB(1)416/08-09(01) -- Information note on "gross floor area concessions granted under the Buildings Ordinance" prepared by the Legislative Council Secretariat)

48. SDEV said that concessions in the calculation of gross floor area (GFA) were seen by some as contributing to building height and bulk. In this regard, the Administration had conducted reviews and analyses. In view of the complexity of the matter, the Administration would collaborate with the Council for Sustainable Development (SDC) to conduct a 3-month extensive public engagement exercise in early 2009. Through the exercise, the Administration hoped to address various concerns such as sustainable development in society, reviewing the provision of green features in buildings, satisfying the aspirations of residents for green features, ensuring flexibility in architectural design and addressing public concerns over the impact of massive buildings. The Administration would be glad to follow up the matter with Members.

Gross floor area concessions

49. Mr LEE Wing Tat was of the view that developers would gain extra benefits through GFA concessions, which could result in an increase in GFA up to 40 to 50% in some extreme cases. Such additional GFA was not reflected in the premium. He was disappointed that the Administration did not consider that there was urgency in implementing improvement measures such as tightening up the discretion to be exercised by the Building Authority (BA) in granting GFA concessions to avoid the impression that there was collusion between Government and business. Although the issues involved were complex, the Administration should plug the loopholes by stages based on a clear timetable. While introducing

legislative measures required considerable time, the Administration could first introduce measures which did not require legislation. Property owners enjoying GFA concessions welcomed such a policy, but the concessions created confusion among the construction and estate agents sectors, and might be unfair to property purchasers. He hoped that the reason for the Administration's slow progress in handling the matter was not because of the strong views of developers. Otherwise, the public would have an impression that the Administration was siding with developers.

50. SDEV replied that the Administration had not yet made any decision on how to revise the control on GFA concessions because the matter still required public discussion. It was premature at this stage for the Administration to propose specific measures or targets on how GFA concessions should be controlled; to do so would confuse the public and might have an undesirable effect on the public engagement exercise. Regarding concessions for green features, people living in buildings with green features would generally welcome such provision but it was people living in the surrounding community who thought there were adversely affected as a result of the building bulk and height. Furthermore, whether some features such as large lobbies and residents' clubhouses could be regarded as genuine green and amenity features deserving GFA concessions was debatable. The Administration had already dealt with GFA concessions relating to the provision of public transport interchanges. As regards land sale, the Administration would specify the maximum allowable GFA to be built. GFA concessions on green features were granted based on a set of Joint Practice Notes issued by the Planning Department (PlanD), Buildings Department (BD) and Lands Department (LandsD) after conducting thorough consultation with the Legislative Council and the public. Such concessions were not granted by individual officials at their discretion. She clarified that land premium was generally payable in respect of most GFA concessions granted. Whether premium was payable also depended on the provisions in the land leases concerned.

51. Mr Albert CHAN considered the policy direction of promoting green features through GFA concessions correct because the living environment would be improved. The problem was that developers took advantage of the policy by boosting the saleable area of the flats. GFA concessions should be excluded from the saleable area so that developers could not reap huge profits. The policy to foster a quality and sustainable built environment should not be over-tightened to the extent that small property owners' benefits would be affected. The Administration's decision should be based on the principle that small property owners rather than developers were the ones to benefit. Political wisdom was needed to strike a balance. As policy implementation involved human factors, any good policy could not be implemented effectively without sufficient monitoring through a fair and open mechanism to prevent corruption, abuse of power and transfer of benefits to developers. Monitoring should be strengthened and the responsible officials should be strict in serving as a gatekeeper.

52. SDEV responded that property owners and residents, not developers, were the ones to benefit from green features in buildings. The crux was the provision of sufficient information in sales brochures. Her understanding was that enhanced measures had been implemented to require developers to provide the necessary information on saleable area and GFA in the sales brochures. Excluding GFA concessions from the calculation of saleable area was a complicated issue. The Director of Buildings (DB) added that GFA concessions would be granted by the BA only if the relevant criteria specified in the Joint Practice Notes or other relevant Practice Notes issued by BD to building professionals were met. For some features, a cap would be imposed on the GFA concessions for individual items.

53. Prof Patrick LAU considered the Buildings Ordinance (BO) outdated because it only regulated building safety and building hygiene. The Administration should fully review the town planning, lands and buildings aspects to facilitate development. Green features were conducive to creating a quality environment and measures for sustaining a quality environment were good for the public and in line with the Chief Executive's policy agenda. As the Administration would control development density through land sale conditions, he considered that GFA concessions should not be an issue. As regards capping GFA concessions, the issue should be considered from a broader perspective instead of capping individual items. High density development in Hong Kong was much admired by some overseas countries and Hong Kong should not give up what had contributed to its success.

54. SDEV responded that the broader the scope of the review, the more difficult it would be to arrive at a substantive conclusion on how to refine the existing policies because there were a lot of divergent views. The Administration would place further emphasis on town planning, lands and buildings aspects in future. While she concurred that high density development had contributed to Hong Kong's success, the aspirations of citizens had changed with the times. The Administration had to strike a balance in this regard. She would welcome Prof Patrick LAU's further advice on the scope of the review after the meeting.

55. Mr CHAN Kam Lam shared the view that a comprehensive review was required. He was worried that even if the Administration conducted adequate consultation, the results of the consultation would be piecemeal because not everyone had a clear understanding of the intention of the policy. As there were accusations of transfer of benefits and collusion between Government and business in granting GFA concessions, the Administration would have to face difficulties in the review. Nevertheless, the Administration should not be deterred by dissenting views of a slogan nature. It should gauge public views comprehensively and then take forward the matter resolutely. Good building designs could improve the built environment. Without GFA concessions, he was

worried that developers would no longer provide green features and buildings would become monotonous. If the policy was over-tightened, the pace of urban renewal would be affected because of a lack of incentive to redevelop old districts. He doubted whether it was desirable to conserve all buildings built in the 1950s and 1960s. The Administration should strike a balance between development and conservation. He hoped that the review would provide a balanced outcome. SDEV thanked Mr CHAN Kam-lam for his views.

Town planning

56. Ms Cyd HO said that she had moved a motion at the Central and Western District Council that town planning should include energy, lighting, air-ventilation, traffic, pedestrian environment and greening elements. Town planning should not focus on the planning of an individual site only; town planning at the district level should be taken into account. She urged the Administration to include those aspects in the review. In Central and Western District, many leases had few or no restrictions on the plot ratio. She was concerned about how the Administration would handle the situation. As regards energy saving, she asked whether the review would include proposals for providing incentives for developers to include energy-saving features in their developments.

57. SDEV responded that the Environment Bureau intended to introduce a legislative proposal on mandatory implementation of Building Energy Codes into the Legislative Council in 2009 because the outcome of voluntary participation was not satisfactory. In relation to plot ratio, the Permanent Secretary for Development (Planning and Lands) (PS(P&L)) responded that the Administration had to respect historic factors if the relevant leases did not have any restrictions on the plot ratio. The Administration was reviewing the Outline Zoning Plans to see whether it was appropriate to impose restrictions on height and plot ratio. The Administration would need careful consideration in reducing plot ratio or GFA because of the divergent views from various parties. The Administration recognized that it was necessary to expedite the review process. These concerns would be addressed during the town planning process as far as possible.

58. Miss Tanya CHAN said that town planning involved complicated issues which were handled by multiple departments and it was often difficult to identify the responsible department for monitoring purposes. By way of illustration, the actual use of a site could be different from the intended use specified in the relevant Outline Zoning Plan. She queried why the Administration did not set a deadline for compliance with conditions in planning permissions and land leases. Without a deadline, the public had no way to monitor whether those conditions had been complied with. She also queried whether any department was responsible for ensuring such compliance. She shared the view that a comprehensive review was needed although it would be difficult and sensitive. Although SDEV had

responded to the aspirations of society, she urged the Administration to formulate a long term policy backed up by legislation, which would survive personnel changes within the Administration. The Administration should elevate the status of the Hong Kong Planning Standards and Guidelines. She believed the public would like to have less bulky buildings despite that there was a need for development. The issue to consider was whether "not to build" or "not to build in such a way". SDEV responded that she had taken note of Miss Tanya CHAN's views.

59. Mr Abraham SHEK did not consider halting all developments the best way forward. Land owners had their rights and the Administration should not require them to adopt a mode of development which would affect their rights. In promoting a quality built environment, the Administration should serve as a role model. As Hong Kong's development was market-driven, what was important was what the market would do. BD, LandsD and PlanD lacked coordination and the Administration should coordinate their work so as to expedite the processing of building projects. This would provide an incentive for development. Development proposals submitted by private developers, the Urban Renewal Authority and the MTR Corporation, Limited should be considered in an unbiased manner. In his view, Outline Zoning Plans were to impose restrictions rather than providing a blueprint for guiding development. There were too many constraints in implementing developments in Hong Kong as compared with Shenzhen and Shanghai. By way of illustration, flats with higher ceilings would have better air ventilation but this would increase building height. If restrictions were too tight, it would affect creating a quality environment. While SDEV had the will to tackle the matter, he considered the mentality of many officials too rigid. As Hong Kong's economic development was driven by land development, he urged the Administration to strike a balance and heed majority views instead of yielding to minority views.

60. Prof Patrick LAU said that he supported the direction of sustainable development. Hong Kong's development was constrained by the restrictions imposed under BO. Instead of stepping up development control, restrictions in BO should be relaxed because over-control led to dull and monotonic buildings. He shared the view that the Administration should rationalize the work of PlanD, BD and LandsD. The Administration should carry out town planning on a district basis from a three-dimensional perspective. He thanked SDEV for her support in the Hong Kong Architecture Centre. Many policies were unfair to architects and the Administration should communicate more with professional bodies and the public in conducting the review. Unfair policies hindered the work of architects. Architects supported sustainable development and they hoped to have a creative and flexible city with fewer restrictions. They would communicate more with citizens to enhance their understanding in architecture.

61. In response, SDEV said that although the issues involved were sensitive, the Administration and SDC would proceed with the work in a prudent and balanced manner. When SDC conducted the 3-month public engagement exercise, the Administration would at the same time discuss with relevant professional bodies in an open manner.

Public engagement

62. Ms Cyd HO opined that as numerous interests were involved in the matter, a 3-month public engagement exercise might be insufficient. She urged the Administration to extend the public engagement period. She asked whether the Administration would provide unbiased professional advice to the public during the public engagement exercise. Without professional advice as reference, preliminary views given by the public might not be too useful for the review. She sought information on the method for analyzing the views collected.

63. In response, SDEV said that the Administration would discuss with SDC on whether there was a need to extend the duration of the public engagement exercise. SDC would engage consultants for the exercise and it had also set up a support group, the members of which included professionals such as architects, surveyors and engineers. SDC would adopt a fair and open manner in conducting the public engagement exercise and analyze public views collected in a fair, just and unbiased manner. Whether the Administration would accept SDC's recommendations after the latter's analysis of the public views would be a policy issue. She would relay Ms Cyd HO's views to SDC for consideration.

64. On the Administration's remarks in paragraph 23 of its paper, Prof Patrick LAU queried why the Administration expected that the industry would generally accept its proposals when the public engagement exercise was still in progress. He said that the industry did not agree to the Administration's proposals. Mr Abraham SHEK also queried the Administration in this regard. SDEV clarified that the proposals referred to in paragraph 23 of the Administration's paper were those minor adjustments to be introduced by BD as set out in paragraph 22, after consultation with the building industry through the established mechanism.

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Legislative Council Secretariat
22 July 2009