

LEGISLATIVE COUNCIL BRIEF

Partial uplifting of the Pokfulam Moratorium to facilitate the “preservation-cum-development” proposal for the preservation of Jessville at 128 Pokfulam Road, Hong Kong

INTRODUCTION

At the meeting of the Executive Council on 22 September 2009, the Council ADVISED and the Chief Executive ORDERED that the Pokfulam Moratorium be partially uplifted to enable the Lands Department (LandsD) to consider the application from the owners for a lease modification to facilitate the “preservation-cum-development” proposal for the privately-owned historic buildings within Rural Building Lot No. 324 (as shown edged blue on the plan at Annex A), 128 Pokfulam Road, Hong Kong (the “Building”) (commonly known as “Jessville”).

JUSTIFICATION

Assessment of heritage value

2. Constructed in around 1931, the Building is a private residence known as “Jessville”, named after Jessie Tam, the wife of Mr William Ngar Tse Thomas Tam (more popularly known as Mr Thomas Tam). The Building is of Italian Renaissance architectural style with Art Deco variations, with a gross floor area of about 1 300 square metres (see photos at Annex B). The Antiquities and Advisory Board accorded the Building a Grade III status under its administrative grading system.

Efforts to preserve the Building

3. Over the years, there was demolition threat to the Building. Under the new heritage conservation policy endorsed by the Chief Executive (CE) in Council on 25 September 2007 and announced by the CE in his 2007-08 Policy Address, Government recognises the need for economic incentives in order to encourage and facilitate private owners to preserve historic buildings in their ownership. In implementing this policy, we aim to strike a proper balance between preservation of historic buildings and respect for private property rights. It is further noted that given the particular circumstances, the needed economic incentives to achieve the policy objective would have to be considered on a case-by-case basis. We have subsequently applied the policy on economic incentives to facilitate conservation of privately-owned historic buildings to the first case of King Yin Lei at 45 Stubbs Road, Hong Kong (which was declared as a monument on 11 July 2008) through a non-in-situ land exchange approved by the CE in Council on 2 December 2008.

4. Efforts including economic incentives to preserve privately-owned heritage buildings are not confined to monuments, although the extent of incentives offered naturally should be commensurate with the heritage value of the building. Although it is not our policy intent to preserve each and every of the Grade III buildings which are defined as “buildings of some merit; preservation in some form would be desirable and alternative means could be considered if preservation is not practicable”, it is highly desirable for the Administration to encourage and facilitate such preservation by the private owners as far as practicable.

5. The site of the Building measuring about 6 440 square metres is zoned “Residential (Group C)” (“R(C)”) on the approved Pok Fu Lam Outline Zoning Plan (OZP) No. S/H10/15. Under the OZP, a range of plot ratios from 0.6 to a maximum plot ratio of 3 would be permitted for “R(C)” zone (depending on the number of storeys for domestic use), and there would be corresponding permissible site coverage for each level of plot ratios. Given that the gross floor area of the Building is only about 1 300 square metres, the permissible development intensity has not been fully utilised. Notwithstanding this, under the existing lease of the site, there are restrictions of one European-type house and building height not exceeding 35 feet. The only constraint to redevelopment up to the development intensity permissible under the statutory OZP is the Pokfulam Moratorium in force on an administrative basis which applies to cases requiring lease modification.

6. As a result of several rounds of protracted discussions between DEVB and the owners, the owners finally proposed to preserve the Building in a “preservation-cum-development” scheme within its own site (hence no need for any government land exchange) with a scale of new development at a plot ratio of 2.1 (in addition to the gross floor area of the historic building of Jessville which represents a plot ratio of about 0.2). Under the proposal, the owners would develop two residential towers of 21 and 17 domestic storeys with the taller one at 246.85 metres above Principal Datum (or 74.85 metres in absolute terms), providing a total of 72 residential units (with a total gross floor area of about 13 524 square metres). The historic building of Jessville would be fully preserved as a club house for the residents of the private residential units, with some degree of public access (access by appointment up to 50 persons once a month limited to not more than 50% of the building, and the area around the building).

The town planning process

7. The existing site coverage of the Building is about 11% and the maximum permitted site coverage for development greater than 20 storeys in the “R(C)” zone under the approved Pok Fu Lam OZP is 15%. In other words, while the plot ratio of 2.1 for the proposed option would not exceed that permitted under the OZP, the site coverage of the proposed “preservation-cum-development” option would exceed the 15% under the OZP. The owners therefore submitted an application to the Town Planning Board (TPB) under section 16 of the Town Planning Ordinance (Cap. 131) for a minor relaxation of the site coverage restriction to 26.17%. The plans of the proposed development submitted by the owners under the planning application are at Annex C. The Metro Planning Committee (MPC) of the TPB approved the

application on 5 June 2009, and imposed, inter alia, the following main approval conditions –

- (a) Jessville should be open to the public for at least one day a week;
- (b) the submission of a visual compatibility assessment on design compatibility between the residential tower blocks and the historic building to the satisfaction of the Commissioner for Heritage or of the TPB;
- (c) the submission and implementation of a detailed Conservation Plan for the conservation of the historic Jessville to the satisfaction of the Director of Leisure and Cultural Services or of the TPB; and
- (d) the submission and implementation of a tree preservation proposal and a revised landscape master plan with quarterly tree monitoring reports to the satisfaction of the Director of Planning or of the TPB.

8. Since the owners have not applied for a review of the MPC's decision in respect of the approval conditions under section 17(1) of the Town Planning Ordinance, the town planning procedures have thus been duly completed.

The lease modification process

9. To implement the “preservation-cum-development” proposal, the owners have recently submitted an application to LandsD for a lease modification to remove a number of restrictions, including but not limited to the following key ones –

- (a) restriction of one European-type house;
- (b) building with height not exceeding 35 feet; and
- (c) widening of the access road which will encroach on government land.

10. The site in question falls within the Pokfulam Moratorium area. To enable LandsD to process the application, the Pokfulam Moratorium imposed administratively on developments in Pokfulam so as to avoid generating additional traffic which would exacerbate the prevailing traffic congestion within the area would have to be partially lifted first.

11. According to a traffic impact assessment conducted by the owners' consultant, the amount of traffic generated from the proposal (with a maximum number of 72 residential units to be constructed) will be relatively small. The traffic impact assessment has shown that there will be adequate capacity on Pokfulam Road, and at the six nearby junctions to cope with the traffic generated. The traffic impact assessment has been accepted by the Transport Department (TD) subject to provision of the necessary widening to the access road and car parking spaces to their

satisfaction. TD and the Transport and Housing Bureau have therefore indicated no objection to the proposed partial uplifting of the Pokfulam Moratorium for the “preservation-cum-development” proposal from the traffic viewpoint.

12. Upon the approval of the partial uplifting of the Pokfulam Moratorium, LandsD will continue to process the lease modification application, including the assessment of full market value premium payable for the proposed lease modification in accordance with the established policy and practices. LandsD will include in the lease necessary conditions to protect the Building from being demolished.

OTHER OPTIONS

13. Our heritage conservation policy is underpinned by a policy statement which requires us to decide on the most appropriate way to preserve historic buildings taking account of factors like respect for private property as well as financial implications for the Government. In practice, this means that the extent of economic incentives offered to save heritage buildings from demolition should be commensurate with the heritage value of the building and the price the public has to pay for its protection. In respect of Jessville, given its relatively low heritage value, we do not consider it justified to contemplate options like land exchange (in any case, unlike King Yin Lei, there is no suitable land in the vicinity for the purpose) or transfer of development rights (the owners as far as we know has no other sites for the purpose) or cash compensation. The incentive now proposed takes the form of lifting an obstacle to development, that is, the Pokfulam Moratorium, and the proposed “preservation-cum-development” scheme would be of a scale smaller than what is permitted in the statutory OZP. If we did not support this option, it was highly probable that the owners would demolish the Building even when they might not be able to redevelop the site to the desired intensity through a lease modification under the Pokfulam Moratorium.

IMPLICATIONS OF THE PROPOSAL

14. This proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not have any civil service, economic and productivity implications.

15. As for financial implications, the proposed partial uplifting of the Pokfulam Moratorium will not lead to additional expenditure on the Government. Full market value premium and administrative fee will be charged on the owners for the proposed lease modification.

16. There is no significant environmental implication arising from the partial uplifting of the Pokfulam Moratorium. The proposed new development within the boundary of the existing site will involve some tree transplanting and felling. The owners will provide compensatory tree planting within the site.

17. As far as sustainability implications are concerned, the proposal would

preserve the historic building of Jessville and therefore contribute to protect the vibrancy of Hong Kong's historical and architectural assets. Nonetheless, the differing concerns and views, particularly on visual and traffic impacts, from various stakeholders should also be handled with care.

PUBLIC CONSULTATION

18. The Authority consulted the AAB on 25 January 2008, and the AAB unanimously supported the Authority's intention to withdraw the declaration of the Building as a proposed monument. The AAB accorded it a Grade III status under its administrative grading system.

19. In the course of scrutinising the gazette notice to withdraw the declaration of the Building as a proposed monument (i.e. the Withdrawal Notice), some Members of the LegCo Sub-committee urged the Government to consider ways to facilitate the preservation of the Building.

20. During the statutory public inspection period of the application under section 16 of the Town Planning Ordinance, four comments objecting to the proposed development mainly on grounds of visual, traffic and environmental aspects and one comment raising concerns on the traffic impact and potential environmental nuisances had been received. These comments were duly considered by the MPC of the TPB on 5 June 2009.

21. The application to the TPB has been included in the progress report of the planning and works matters as a regular discussion item of the District Development and Environment Committee of the Southern District Council (DC). Members have not raised any comments on the proposal.

22. In the light that partial uplifting of the Pokfulam Moratorium would be required to facilitate the "preservation-cum-development" option of the Building, DEVB informed the Southern DC at its meeting on 25 June 2009 of the latest development plan for Jessville and need to uplift the Pokfulam Moratorium for such purpose. The Southern DC noted the arrangement and raised no objection to it. We have also taken the opportunity of submitting our progress report on heritage matters to the LegCo Panel on Development at its meeting on 28 July 2009 to brief LegCo Members on this case, and Members did not raise any objection.

PUBLICITY

23. A press release will be issued on the partial uplifting of the Pokfulam Moratorium and the agreed arrangement for preserving the Building through this "preservation-cum-development" scheme. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

Historic background of the Building

24. Constructed in around 1931, the Building is a private residence known as “Jessville”, named after Jessie Tam, the wife of Mr William Ngar Tse Thomas Tam (more popularly known as Mr Thomas Tam). Mr Thomas Tam purchased the site in 1929 and constructed the Building in the subsequent few years. He was a barrister and an influential social figure in Hong Kong from the 1930 to 1960s. He was appointed as a Magistrate in 1947. He was also the Chairman of Po Leung Kuk Board and President of the Rotary Club of Hong Kong in 1936 and 1937, and an Unofficial Member of the LegCo between 1939 and 1941. He was enthusiastic in charity, and a charitable organisation, namely Jessie and Thomas Tam Centre of the Society for the Promotion of Hospice Care, was named after himself and his wife.

ENQUIRIES

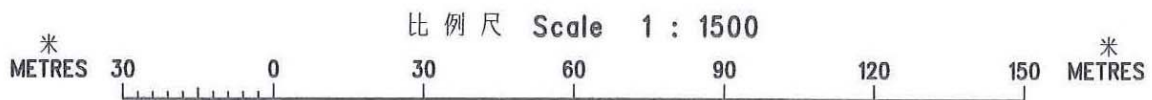
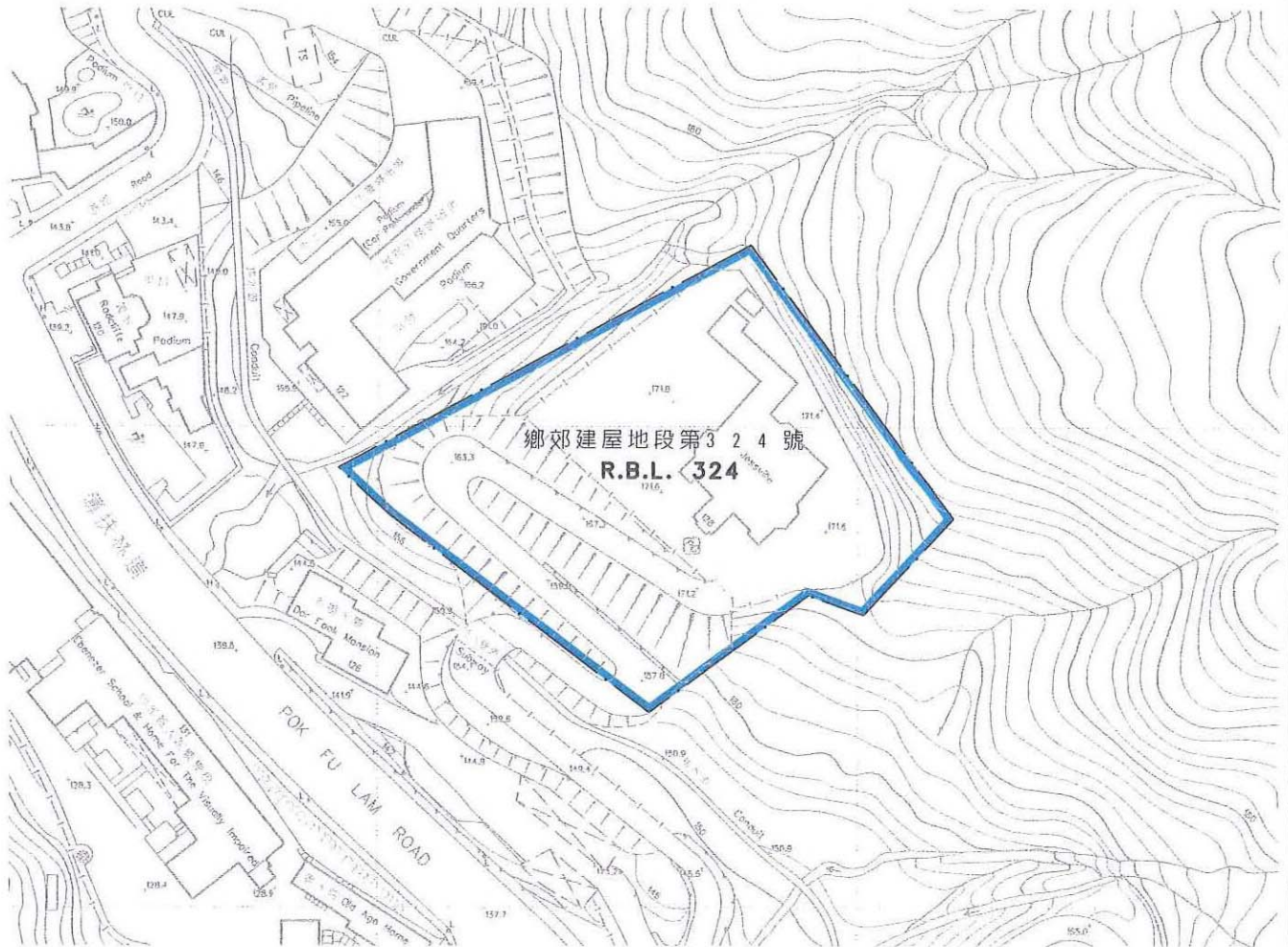
25. For any enquiries on this brief, please contact Mr. Jack Chan, Commissioner for Heritage of the Development Bureau at 2848 2104.

**Development Bureau
September 2009**

鄉郊建屋地段第324號之位置圖

附件A Annex A

LOCATION PLAN OF RURAL BUILDING LOT No.324



位置 LOCATION



比例 Scale 1 : 20000

只作識別用 FOR IDENTIFICATION PURPOSES ONLY

地政總署 港島西及南區地政處
District Lands Office, Hong Kong West and South
Lands Department

圖則由港島測量處繪製
Plan Prepared by District Survey Office, Hong Kong

檔案編號 File No.

測量圖編號 Survey Sheet No. 11-SW-17A

發展藍圖編號 Layout Plan No.

參考圖編號 Reference Plan No.

圖則編號 PLAN No. HKM8613

日期 Date : 01/06/2009

Photos of the Historic Building





**Plans of the Proposed Development
Submitted by the Owners under the Planning Application**

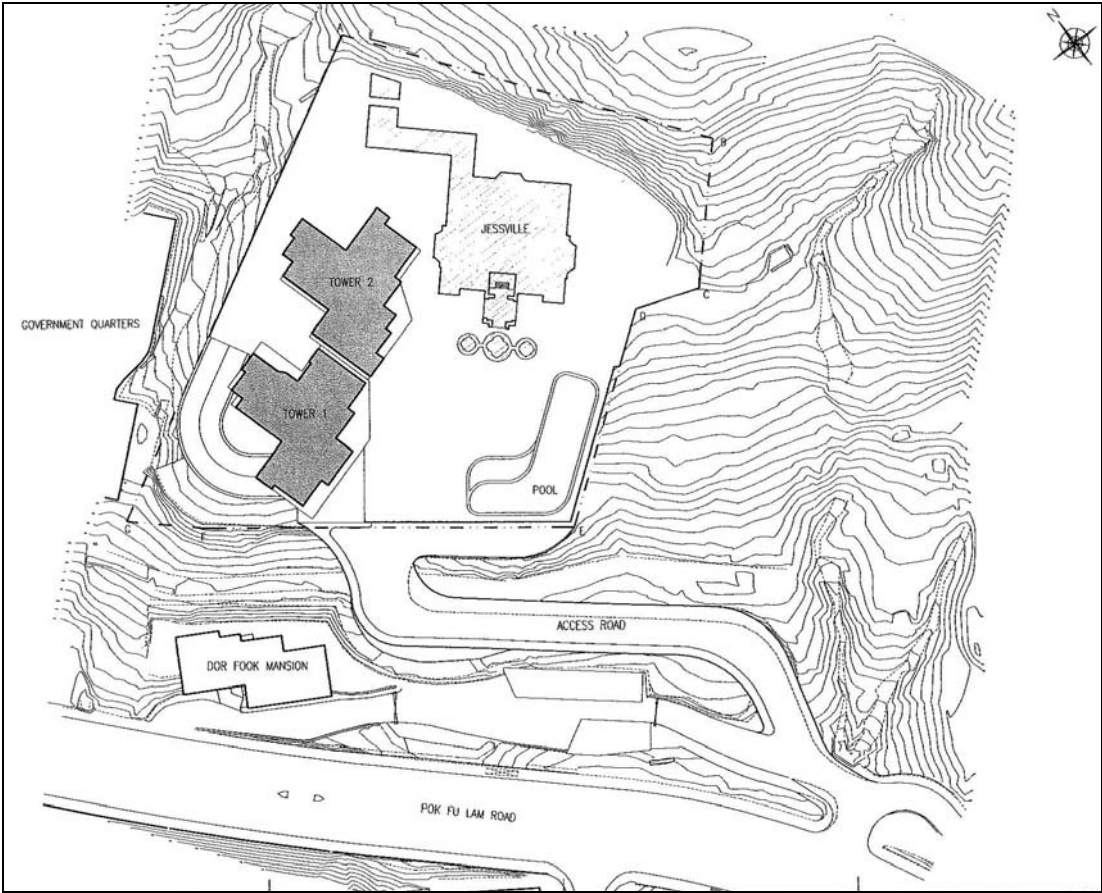
(A) Landscape Master Plan



Note:

- (1) Water Terrace Garden
- (2) Contemplative Garden
- (3) Entrance Courtyards
- (4) Swimming Pool
- (5) Grand Lawn
- (6) Landscape Buffer Treatment
- (7) Landscape Treatment of the Podium Edge

(B) Master Layout Plan



(C) Section through the Site

