

Town Planning Appeal No. 12 of  
1999

IN THE MATTER of the Town  
Planning Ordinance Cap. 131

and

IN THE MATTER of an Appeal  
under Section 17B by Discreet  
Limited

Date of hearing : 16th May 2000

Date of decision : 5th June 2000

Panel : Mr Robert C. Tang S.C., J.P. (Chairman)

Mr Charles Chiu Chung-yee

Dr Simon Kwan Sin-ming

Mr Patrick Lau Hing-tat

Mr Michael Robert Mann

### **DECISION**

Lot No. 1929 in S.D.2, Fei Ngo Shan, Sai Kung, New Territories, which is situated at No. 10 Fei Ha Road, Sai Kung, New Territories, is zoned "Residential (Group C) 3" ("RCC3") on the Tseng Lan Shue Outline Zoning Plan ("OZP") No.S/SK-TLS/2. As such, it is subject to a maximum plot ratio of 0.6, and a maximum site coverage of 30%.

2. There are now erected on Lot No. 1929 a total of 6 houses. Discreet Limited, the owner of Lot No. 1929, has appealed against the refusal of the Town Planning Board to relax the maximum plot ratio and site coverage. The reasons given by the Town Planning Board insofar as they are relevant to this decision are:

- "(a) the proposed development is not in line with the planning intention of the "Residential (Group C)3" zoning of the site which is to reflect the existing and committed low-rise and low-density residential developments and to restrict future developments to low-rise and low-density residential schemes. This is in recognition of the need to conserve the

natural environment and existing character of the Fei Ngo Shan area as well as the limitations of the infrastructural facilities, in particular the limited capacity of the road network of the area and the substandard junction between Clear Water Bay Road and Fei Ngo Shan Road;

- (b) the proposed relaxation of the plot ratio from 0.6 to 0.75 and site coverage from 30% to 37.5% on the site is not minor in nature;
- (c) the intensification of development on the site is excessive in scale resulting in a development incompatible with the surrounding residential developments;"

3. According to Discreet Limited's calculation, the plot ratio is required to be relaxed to 0.695 and the site coverage to 35% and not 0.75 and 37.5% respectively. We are prepared to proceed on the basis of Discreet Limited's figures.

4. There are now 6 houses on the Lot. Discreet Limited want to build 2 additional houses. To do so, they need a relaxation of the plot ratio as well as the site coverage. According to Discreet Limited, an additional floor area of about 200m<sup>2</sup> would result if the application is approved.

5. Mr. Daniel Kwan, who was authorised by Discreet Limited to appear as their representative, submitted that the relaxation sought is minor.

6. He also claimed that some planning gain would result from the development. Such planning gains have been described in a Traffic Impact Assessment Report prepared by Ho Wang SPB Limited. Moreover, Dr. Wang Liang-Huew, who gave evidence on Discreet Limited's behalf, told us that an additional planning gain is the fact that Discreet Limited would be sacrificing part of the open space within Lot 1929 in order to increase the housing stock for Hong Kong by 2 houses! We cannot agree with Dr. Wang.

7. The other so-called planning gains included suggestions that a pedestrian walkway be built.

8. We do not believe the proposed planning gains can justify the relaxation sought.

9. We agree with the Town Planning Board that a relaxation of such scale cannot be regarded minor. In any event, even if a relaxation of such scale could be described as minor, we would nevertheless dismiss the appeal.

10. There are now 6 houses on the site. There is a reasonable amount of open space on the Lot. If 2 further houses were to be built, the open space would be substantially reduced. We annex to this decision a copy of a plan prepared by the Town Planning Board which shows the substantial reduction in open space if the relaxation is granted. It will render the present development much less attractive. The only point in the relaxation is to gratify Discreet Limited's desire for 2 additional houses.

11. We do not believe the application has any merit. The relaxation is not sought so that, for example, more attractively designed buildings could be built on the site.

12. It may be, as the chronology of events shows, Discreet Limited believe that because the lease conditions governing the Lot would permit more intensive development than under its present zoning, it is reasonable to grant the relaxation sought. However, that is not the correct approach. There must be some good reason justifying the relaxation.

13. A relaxation of the plot ratio is not justified in the circumstances of this case. Nor the increase of site coverage sought. Accordingly, the appeal is dismissed.