

## **Housing Bureau’s handling of transitional housing projects Investigation Report**

This Office received multiple complaints against the then Transport and Housing Bureau (“THB”)<sup>1</sup> and the Housing Bureau (“HB”) (which took over the handling of transitional housing projects from THB) for improperly utilising a Government site zoned for open space (“the Site”) near the complainants’ residential estate in the urban area for transitional housing purpose. According to the complainants, information on the then THB’s website specified that community organisation interested in using the Site for transitional housing project (“the Project”) needed to apply for amendment to planning permission from the Town Planning Board (“TPB”) under section 16 for the proposed temporary use and for short-term tenancy from the Lands Department (“LandsD”). The website also specified that as consultation was involved in the process, approval of the application was not assured. Subsequently, the then THB claimed that the Project was regarded as a temporary use always permitted under the Outline Zoning Plan (“OZP”) and planning permission from TPB was not required. The complainants’ allegations can be summarised as follows:

- (1) neglecting local residents’ expectations and views of the Site being used for open space as committed by the Government; and
- (2) exempting the community organisation awarded the Project from the requirements specified on the then THB’s website, i.e. applying for planning permission under section 16 for the proposed temporary use and conducting public consultation, which was unfair to other applicant organisations.

### **Our Findings**

2. After a preliminary examination of the replies and supplementary information provided by HB, The Ombudsman decided to initiate a full investigation. In December 2022, we completed the investigation. Our findings follow.

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<sup>1</sup> Upon the Government reorganisation effective on 1 July 2022, the then THB was split into two policy bureaux, namely the Transport and Logistics Bureau and HB. Transitional housing issues were taken over by HB.

## *Response from HB*

### Policy Initiatives

3. In the Policy Addresses between 2017 and 2021, the Government proposed making every effort in promoting the development of transitional housing. The objective is to better use **vacant** sites and buildings to supply short-term accommodation for people with urgent housing needs. In 2020, the Government set up a Funding Scheme to support the implementation of transitional housing projects by non-governmental organisations (“NGOs”). The then THB established a Task Force on Transitional Housing (“Task Force”) which coordinates and supports the transitional housing projects proposed and operated by NGOs by helping them to promptly resolve problems encountered during the implementation process and facilitate the application for relevant permissions.

4. The Task Force has been proactive to liaise with relevant departments to facilitate NGOs implementing the projects. Relevant departments are also keen to grant exemptions to transitional housing projects after considering their short-term nature and objective circumstances. Relevant **policy initiatives** include TPB announced on 26 November 2018 that it agreed that transitional housing coordinated by the Task Force and located at permanent buildings in the urban and new town areas for a period of five years or less can be regarded as a temporary use always permitted under the OZP. TPB accepted that transitional housing is temporary in nature. The Task Force will be responsible for monitoring and ensuring that transitional housing will not become a permanent use. According to the Notes of the OZPs for urban and new town areas, temporary uses (expected to be five years or less) of any land or building are always permitted as long as they comply with any other relevant legislation, the conditions of the Government lease concerned, and any other Government requirements, and there is no need for these to conform to the zoned use or the Notes.

5. Regarding site selection, the Task Force endeavours to review the usage of existing sites or properties jointly with relevant policy bureaux and departments and study the feasibility of transitional housing. In particular, Government or private sites left vacant temporarily can be better utilised for the construction of transitional housing, and Government or private properties left vacant temporarily can be refurbished and turned into transitional housing.

## Planning Development of the Site

6. HB pointed out that the Site is zoned for “Open Space” on the relevant OZP, and the Notes of the OZP stipulate that temporary uses (expected to be five years or less) of any land or building are always permitted as long as they comply with any other relevant legislation, the conditions of the Government lease concerned, and any other Government requirements, and there is no need for these to conform to the zoned use or the Notes. Accordingly, temporary use of the Site for transitional housing complies with the OZP requirements. Planning permission from TPB is not required. Nor **statutory** public consultation required under relevant legislation is involved.

## Site Assessment for Transitional Housing Project

7. After being used as the construction site for mass transit railway between 2011 and early 2018, the Site had remained vacant since March 2018. Given that the site had been left vacant for some time, LandsD provided the then THB with the Site’s information in July 2020 for considering its suitability for transitional housing purpose to optimise its use.

8. Before selecting the Site for transitional housing, the Task Force had studied and assessed the legislative, regulatory and technical aspects, which included traffic, infrastructure (water, electricity, drainage, etc.), surrounding environment and community facilities, as well as consulted relevant Government departments about the Project.

9. Regarding the Site’s long-term planning and arrangements, the Task Force had consulted LandsD, the Transport Department (“TD”) and the Leisure and Cultural Services Department (“LCSD”). Feasibility studies by LCSD and TD on the construction of park or other recreational facilities and a public carpark under the “single site, multiple uses” policy on the Site were at preliminary stages. Detailed schedules for implementation were yet to be drawn up.

10. The Task Force asserted that transitional housing was short-term in nature and the Project should have an exit plan. Hence, the long-term planning for the development of park, other recreational facilities or public carpark on the Site would not be affected. The Task Force proposed that before the Site’s long-term development plan was confirmed and implemented, it could first be utilised for the temporary use of transitional housing to optimise the use of precious land resources and alleviate the

housing burden of the grassroot families. This was in line with the Government’s policy direction of making good use of land resources. Furthermore, the Task Force was mindful of local residents’ demands for improving recreational facilities in the area. The Task Force learned from the departments concerned that after completing the preliminary studies on the development of park, other recreational facilities and public carpark on the Site, they would launch public consultation on the provisions of the above facilities in due course.

11. In response to the complainants’ allegation that the Task Force had neglected the local residents’ demands for improving recreational facilities in the area and their legitimate expectations for the development of the Site, HB differed and reiterated that the Project would have an exit plan and the development of park, other recreational facilities or public carpark on the Site in the long-term would not be affected. Overall, the Task Force consulted relevant departments about utilising the Site for transitional housing purpose and conducted site assessment before concluding that the Site was suitable for such purpose with a period of five years or less.

Webpage Information

12. On 19 January 2022, the then THB listed the Site on its webpage as a potential site for transitional housing development (“Webpage Information”) to invite proposals from NGOs interested in operating transitional housing project on the Site and to provide relevant information to the public.

13. The Webpage Information included “points to note” Note 2 as follows:

*Community organisation should carry out feasibility study for using the listed site(s) as transitional housing project. Community organisation needs to apply for planning permission from TPB under section 16 for the proposed temporary use, and apply for short-term tenancy from LandsD. As public consultation is involved in the process, approval of the application is not assured.*

HB clarified that Note 2 was a general reminder applicable to transitional housing projects not located in the urban and new town areas, where planning permission from TPB for the proposed temporary use was required. HB explained that Note 2 was **not applicable** to the Project because it was regarded as a temporary use always permitted under the OZP. Hence, planning permission from TPB was not required and statutory

public consultation was not involved (see **para. 6**). HB regretted that Note 2 had failed to provide residents or other parties with clear information about the Project.

14. After becoming aware of the concern caused to local residents by the Webpage Information, the then THB reviewed the content of the Webpage Information and revised Note 2 on 10 May 2022 to read as follows: “*Community organisation should carry out feasibility study for using the listed site(s) as transitional housing project. Community organisation **may** need to apply planning permission under the Town Planning Ordinance (if applicable) and apply for Short Term Tenancy for using the site(s). As public consultation is involved in the process, approval of the application is not assured.*” The revised note was aimed at providing more accurate information about the project.

15. HB added that, to implement transitional housing projects, the Task Force would issue a press release with details about the projects approved after each meeting of the Assessment Committee for the Funding Scheme to Support Transitional Housing Projects by NGOs. A press release was also issued about the Project. Moreover, the Task Force would update the dedicated webpage for transitional housing from time to time to inform the public of the details and latest progress of individual projects.

#### Local Consultation

16. HB reiterated that the Project (with a period of five years or less) coordinated by the Task Force did not require planning permission from TPB and statutory public consultation was not involved, as long as it complied with the relevant legislation and requirements. The NGO implementing the Project (“Project NGO”) had engaged a professional consultancy team to prepare the detailed designs of the Project and submit building plans to relevant departments and seek their approvals, so as to ensure that the Project is in compliance with legislative requirements.

17. Although the Project did not involve statutory public consultation, the Task Force carried out local consultation, which included liaising with various stakeholders jointly with the Project NGO in April and May 2022 to seek their views as well as giving replies and explanations in response to the views and concerns received. HB pointed out that during the consultation process, the Task Force received objections against the Project, while some organisations, welfare agencies and local residents (such as those living in residential estates in the vicinity) voiced their support for the Project.

18. Between April and September 2022, the Task Force and the Project NGO met with representatives of local residents, stakeholders and Legislative Council members to seek their views about the Project and explain to them that transitional housing was short-term in nature and the Site's long-term development would not be affected. The Project NGO continued to liaise with stakeholders and collect their views for improving the Project's designs and layout, taking into account the needs of different stakeholders as far as possible.

19. In sum, HB explained that Note 2 in the Webpage Information was not applicable to the Project. It was a general reminder applicable to transitional housing projects not in the urban and new town areas requiring planning permission from TPB for the proposed temporary use, but the Webpage Information did not specify this. HB added that "public consultation" in Note 2 referred to the statutory public consultation required under the application for planning permission. In fact, based on the principles of good public administration, the Task Force consulted various stakeholders on many occasions and achieved the same purpose of statutory public consultation.

### ***Our Comments***

#### Complaint Point (1)

20. HB clarified that, after the then THB had received the Site's information from LandsD, the Task Force consulted TD and LCSD and learned that the feasibility studies for the provisions of recreational facilities or public carpark on the Site were still at preliminary stages with detailed schedules for implementation yet to be drawn up. The Task Force thus confirmed that the Site would remain vacant. The Task Force has also conducted site assessment before selecting the Site for transitional housing project (see **para. 8**). Given that the Project had a period of five years or less and would have an exit plan, the Task Force considered that it would not affect the Site's long-term development of park, other recreational facilities or public carpark (see **para. 10**), and would be conducive to optimal use of precious land resources.

21. We consider the then THB and the Task Force to have handled the matter in line with the Government's policy initiatives for promoting the development of transitional housing. Before the long-term development of park, recreational facilities or public carpark on the Site was confirmed and implemented, the Task Force selected the Site which had remained vacant for the Project of a short-term nature, while ensuring that the Site's long-term development would not be affected. Its actions were

reasonable. The question of whether the Site is suitable for transitional housing purposes involves professional judgement of housing development and is not subject to our comments.

### Complaint Point (2)

22. This Office has scrutinised the relevant information and records, which include the press release with the title “Town Planning Board agrees on eligible transitional housing for temporary use” and the correspondence between relevant organisations. Based on the decision of TPB, the then THB and HB explained that the Project could be regarded as a temporary use always permitted under the OZP in which planning permission from TPB was not required and statutory public consultation was not involved under the established procedures (see **para. 6**). Consequently, no statutory public consultation was launched. This Office finds no impropriety in this.

23. HB clarified that Note 2 in the Webpage Information was not applicable to the Project. It was a general reminder applicable to transitional housing projects not located in the urban and new town areas, where planning permission from TPB for the proposed temporary use was required (see **para. 19**). Nevertheless, the Webpage Information did not mention this at all. Nor did it specify or explain its scope of application or exemption. This Office considers Note 2 inaccurate, which could easily cause misunderstanding. Moreover, as many transitional housing projects are in the urban and new town areas, we fail to understand why information only applicable to transitional housing projects outside the urban and new town areas would be defined as “general reminder”.

24. Meanwhile, HB asserted that although the Project did not involve statutory public consultation, the Task Force had, based on the principles of good public administration, conducted local consultation in which it had consulted various stakeholders on many occasions and had achieved the same purpose of statutory public consultation (see **para. 19**). This Office does not agree on this. The “public consultation” in Note 2 referred to the public consultation required for the application for relevant planning permission. The complainants probably expected that their views submitted during the public consultation process would be considered during TPB’s assessment of the planning application for the proposed temporary use of the Site. However, the local consultation conducted by the Task Force was not for the purpose of collecting and reflecting the views of residents to TPB. Hence, the purposes of the local consultation and statutory public consultation should not be mixed up.

25. This Office noticed that the press releases issued by the Task Force about approved projects provided only the total funding and estimated number of units provided under each project. HB has not provided any information showing that the Government released details about those projects via other general channels (such as the Government's social media accounts). In such circumstances, the public mainly relied on the Webpage Information to obtain details about the Project, so it was even more crucial to keep the Webpage Information precise and accurate. As mentioned above, Note 2 in the Webpage Information published by the then THB in January 2022 was inaccurate. While Note 2 was revised in May 2022, it still failed to specify **clearly and accurately** whether the transitional housing project listed required planning permission from TPB, and whether statutory public consultation was involved. This Office considers the revised version, which reads "*Community organisation may need to apply planning permission under the Town Planning Ordinance (if applicable) and apply for Short Term Tenancy for using the site(s)*", is even murkier and unable to clarify the essential information about the projects.

26. Overall, this Office considers the then THB's Webpage Information about the Project inaccurate, which could easily cause misunderstanding and unrealistic expectations of the public.

27. Based on the above analysis, The Ombudsman considers the complaint **partially substantiated**.

### Recommendations

28. This Office recommends that HB:

- (1) review information dissemination for transitional housing projects to ensure that the information provided is accurate, clear and relevant; and
- (2) continue to maintain effective communication with residents and strike a balance between the development of the Project and the residents' concerns about design of the project.

29. HB accepted all the above recommendations.



**Office of The Ombudsman  
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