

**FURTHER CONSIDERATION OF APPLICATIONS No. A/NE-KTS/461 and 462
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House – Small House)
in “Residential (Group D)” and “Village Type Development” Zones
Lots 409 S.AI (A/NE-KTS461) and 409 S.AJ (A/NE-KTS462) in D.D. 94,
Hang Tau Tai Po, Kwu Tung South, New Territories**

1. Background

- 1.1 On 24.10.2018, the applicants, Mr. LI Yik Fung (the applicant of A/NE-KTS/461) and Mr. LI Wong Sun (the applicant of A/NE-KTS/462) represented by Lawson David & Sung Surveyors Limited, submitted the subject two applications seeking permission to build a house (New Territories Exempted House (NTEH) – Small House (SH)) each on the application sites (the Sites) in Hang Tau Village, Sheung Shui (**Plan FA-1 and Drawings A-1 and A-2 in Annex F-I**). Both Sites fall mainly within “Residential (Group D)” (“R(D)”) zone with a small part within “Village Type Development” (“V”) zone (9% and 4% respectively) on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. The Sites are immediately adjacent to the “V” zone of Hang Tau and are currently occupied by open storage use. The Sites and the proposed houses are 100% within village ‘environs’ (‘VE’) of Hang Tau.
- 1.2 On 4.1.2019, the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) considered the applications. During the deliberation, some members opined that approval of the applications might upgrade the area with better utilization for higher development intensity. However, noting that there was sufficient land in the “V” zone to meet the outstanding SH applications and the adjacent lots of the Sites in the same “R(D)” zone within the ‘VE’ had been carved out into numerous small lots likely for NTEH (SH) development (**Plan FA-2**), some members raised concerns on setting precedents for similar applications for NTEH (SH) development which had a higher development intensity than the permissible plot ratio of 0.4 for other ‘House’ development in the “R(D)” zone. Moreover, SH to be built in a very dense manner would not help improving the living environment. After deliberation, members considered it cautious to have a comprehensive picture on the areas of “R(D)” zone which overlapped with ‘VE’ of the recognised villages in rural areas so that the

implication on other applications of similar nature could be better assessed. After deliberation, the Committee agreed to defer a decision on the application pending provision of the said information by the Planning Department (PlanD). Extract of the minutes of the meeting is at **Annex F-II**.

1.3 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/NE-KTS/461 and 462 (Annex F-I)
- (b) Extract of Minutes of the Committee's Meeting (Annex F-II)
held on 4.1.2019

2. Land within "R(D)" Zone and 'VE' as well as Similar Applications

- 2.1 After checking the statutory plans in rural areas, it is found that there is a total of about 17.2 ha of land zoned "R(D)", which also falls in the current 'VE' of recognized villages¹. They fall within 11 OZPs, with their breakdown at **Annex F-III** and locations shown on **Plan FA-3a to 3c**. For the subject "R(D)" zone in Hang Tau Village, about 1.46 ha of land falls both in "R(D)" zone and 'VE' (**Plan FA-2**).
- 2.2 An analysis has been conducted on the similar applications of SH within this 17.2 ha of land in both "R(D)" zone and 'VE' since the first promulgation of Interim Criteria for Consideration of Application for NTEH/SH in New Territories (the Interim Criteria) (i.e. 24.11.2000 to 30.4.2019) (**Annex F-IV**). There are a total of 10 similar applications for SH on 4 OZPs (i.e. Shek Kong, Nam Sang Wai², Ho Chung and Tong Yan San Tsuen), with 7 applications approved and 3 rejected, and none of them in the subject "R(D)" zone in Kwu Tung South. The 7 approved applications were approved between 2005 and 2014 because sympathetic/favourable consideration was given in accordance with the Interim Criteria as there was general shortage of land in the "V" zone to meet the SH demand. All these applications were approved before the adoption of the more cautious approach by the Board since 14.8.2015. For the 3 rejected applications, 2 were rejected in 2003 as there was no general shortage of land in the "V" zone to meet the SH demand despite that the footprints of the proposed SHs were entirely within the 'VE' of the recognized villages. The remaining one was rejected in 2010 as less than 50% of the proposed SHs was within "V" zone or 'VE'. No sympathetic or favourable consideration could be given to these 3 applications under the Interim Criteria. In sum, the decision on these 10 similar applications was made mainly on the basis of the criteria of the Interim Criteria.

¹ The 'VE' boundaries of recognised villages are based on the latest information of the Lands Department (LandsD), which is subject to change.

² The 'VE' boundaries of the relevant recognized villages on Shek Kong and Nam Sang Wai OZPs relevant at the time of consideration of these applications were subsequently deleted and are not included in the current 'VE' boundaries information of LandsD.

3. Planning Considerations and Assessments

- 3.1 The Committee's concerns as mentioned in paragraph 1.2 above were mainly on whether the approval of the applications would set precedents for similar SH applications and whether the proposed SHs under the subject applications would result in a more dense living environment in the "R(D)" zone. Hence, members requested for a comprehensive picture on the areas of "R(D)" zone which overlapped with 'VE' of recognized villages. The requested information and relevant similar applications are provided in paragraph 2 above. For the subject "R(D)" zone in Hang Tau Tai Po, there is about 1.46 ha of land falling within both "R(D)" zone and 'VE', and no planning permission for SH was previously granted by the Board in this area under the "R(D)" zoning. Having considered the information, the updated planning considerations and assessments for the subject applications are elaborated below.
- 3.2 The applications are each for a proposed SH at the Sites which are mainly within "R(D)" zone with a small part within "V" zone (about 9% and 4% respectively). The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The Sites are currently used as open storage. The proposed developments will help phase out the existing open storage use and are generally in line with the planning intention in this aspect.
- 3.3 The Sites are located to the immediate northwest of the village cluster of Hang Tau Village. The proposed SHs are compatible with surrounding environment and landscape character which is rural in nature with village houses to the east and south (**Plan A-2a in Annex F-I**). There is no existing tree within the Sites and the Sites have been formed. The proposed SHs are not anticipated to cause adverse drainage, sewerage and environmental impacts on the surrounding areas. Government departments consulted, including Chief Engineer/Mainland North, Drainage Services Department, Director of Environmental Protection and Chief Town Planner/Urban Design and Landscape, PlanD have no adverse comment on the applications. The Commissioner for Transport (C for T) has reservation on the applications due to setting of undesirable precedents resulting in cumulative adverse traffic impact, but considers that the applications only involving construction of two SHs can be tolerated.
- 3.4 According to the latest information from District Land Officer/North, LandsD, the total number of outstanding SH applications for Hang Tau Village is 54. As provided by the Indigenous Inhabitant Representatives of Hang Tau, the 10-year SH demand forecast for the Village is about 3,200. Based on the latest estimate by PlanD, about 4.42 ha (or equivalent to about 176 SH sites)

of land is available within the “V” zone of Hang Tau Village (**Plan FA-4**). There is sufficient land available within the “V” zone to meet the outstanding SH applications though it cannot fully meet the 10-year SH demand.

- 3.5 Notwithstanding the planning intention of the “R(D)” zone for improvement and upgrading of existing temporary structures, the applications are for SH development for which the Board has prepared the Interim Criteria setting out the major criteria in considering the SH application. The consideration of the subject applications should therefore be focus on the Interim Criteria. According to the Interim Criteria (**Appendix II in Annex F-I**), sympathetic consideration may be given if not less than 50% of the proposed SH footprint falls within the ‘VE’ of a recognized village and there is a general shortage of land in meeting the demand for SH development in the “V” zone of the village. For the subject applications, 100% of the footprints of the proposed SHs fall within the ‘VE’ of Hang Tau (**Plan FA-1**) and land available within the “V” zone is sufficient to meet the outstanding SH applications but not the forecasted 10-year SH demand. In recent years, the Board has adopted a more cautious approach in considering applications for SH developments. In considering whether there is a general shortage of land in meeting SH demand, more weighting has been put on the number of outstanding SH applications provided by the LandsD. As land is available within the “V” zone to meet the outstanding 54 SH applications, it is considered more appropriate to concentrate the proposed SH developments within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services. As revealed in the research information in paragraph 2.2, the Board’s consideration of 10 similar applications in “R(D)” zone on OZPs within ‘VE’ general follows the Interim Criteria. In this regard, it is considered that sympathetic consideration should not be given to the subject applications.
- 3.6 There is no previous SH application on the Sites and no similar application in the same “R(D)” zone. It is noted that the private land in the subject area within the “R(D)” zone and ‘VE’ have been carved out into small lots (**Plan FA-2**) with size fitting about 40 SH developments. It is very likely that approval of the subject applications would set precedents for similar applications for SH in this area. The cumulative effect of approving such applications would lead to adverse traffic impact on the surrounding areas.
- 3.7 Of the 5 public comments received as stated in paragraph 11 of **Annex F-I**, one commenter raises concern on the lack of orderly planning and sewerage facilities. In this regard, relevant Government departments’ comments and planning assessments as stated in paragraphs 3.2 and 3.3 above are relevant.

4. **Planning Department's Views**

4.1 Based on the assessments made in paragraph 3, the PlanD does not support the applications for the following reasons:

- (a) land is still available within the "Village Type Development" zone of Hang Tau Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for more orderly development pattern, efficient use of land and provision of infrastructures and services; and
- (b) approval of the application would set an undesirable precedent for similar applications within the "R(D)" zone. The approval of similar applications would result in adverse cumulative traffic impacts on the surrounding areas.

4.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 17.5.2023, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Annex F-V**.

5. **Decision Sought**

5.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.

5.2 Should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

5.3 Alternatively, should the Committee decide to approve the applications, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

6. Attachments

Annex F-I	RNTPC Paper No. A/NE-KTS/461 and 462
Annex F-II	Extract of Minutes of the Committee's Meeting held on 4.1.2019
Annex F-III	Land within Both "R(D)" Zone and Current 'VE' of Recognized Villages
Annex F-IV	Applications of NTEH (SH) in both "R(D)" Zone and 'VE' Since the First Promulgation of the Interim Criteria (24.11.2000 to 30.4.2019)
Annex F-V	Advisory Clauses
Plan FA-1	Location Plan
Plan FA-2	Site Plan
Plan FA-3a to 3c	Land within Both "R(D)" Zone and Current 'VE' of Recognized Villages
Plan FA-4	Estimated Amount of Land Available for Small House Development within the "V" Zone

**PLANNING DEPARTMENT
MAY 2019**