

# TOWN PLANNING BOARD

**TPB Paper No. 10710**

**For Consideration by  
the Town Planning Board on 29.1.2021**

**REVIEW OF APPLICATION NO. A/SK-SKT/22  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed 19 Houses  
in “Residential (Group E)2” zone**

**Lots 8 S.B, 9 S.A and 9 S.B in D.D. 212 and Adjoining Government Land,  
1 Hong Kin Road, Sai Kung, New Territories**

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Adjoining Government Land, 1 Hong Kin Road, Sai Kung, New Territories**

**1. Background**

1.1 On 14.6.2019, the applicant, Shing Fung Group Property Investment Limited represented by Lanbase Surveyors Limited, sought planning permission for proposed 19 houses at the application site (the Site). The Site falls within an area zoned “Residential (Group E)2” (“R(E)2”)<sup>1</sup> on the approved Sai Kung Town Outline Zoning Plan (OZP) No. S/SK-SKT/6 (**Plan R-1**). According to the Notes of the OZP, ‘House’ within the “R(E)2” zone requires planning permission from the Town Planning Board (the Board).

1.2 On 20.3.2020, the Rural and New Town Planning Committee (RNTPC) of the Board decided to reject the application and the reason was:

the applicant failed to demonstrate that the interface problems with the adjacent industrial use can be satisfactorily resolved and that the proposed development would not be subject to adverse environmental impacts.

1.3 The proposed development comprises 19 blocks of 3-storey (2 storeys over 1 storey of carport) houses with proposed plot ratio (PR) and site coverage not more than 0.75 and 40%. The major development parameters of the proposal are summarised at paragraph 1.2 of **Annex A**.

1.4 For Members’ reference, the following documents are attached:

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|---|------------------|
| (a) RNTPC Paper No. A/SK-SKT/22B                              | <b>(Annex A)</b> |
| (b) Extract of minutes of the RNTPC meeting held on 20.3.2020 | <b>(Annex B)</b> |
| (c) Secretary of the Board’s letter dated 8.4.2020            | <b>(Annex C)</b> |

**2. Application for Review**

2.1 On 27.4.2020, the applicant applied, under section 17(1) of the Town Planning Ordinance (the Ordinance), for a review of the RNTPC’s decision to reject the application (**Annex D**).

2.2 On 17.7.2020 and 25.9.2020, the Board agreed to defer a decision on the review application for two months respectively as requested by the applicant for submission

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<sup>1</sup> A narrow strip of the Site (29m<sup>2</sup>) falls within the “Green Belt” zone. It could be regarded as minor boundary adjustment in accordance with the covering Notes of the OZP and minor relaxation of PR restriction is not required.

of Further Information (FI). However, no FI have been received and the application for review is scheduled to be considered at this meeting.

### 3. **Justifications from the Applicant**

The applicant has not put forward any justifications to support the review application.

### 4. **The Section 16 Application**

#### The Site and Its Surrounding Areas (Plans R-1 to R-4c)

4.1 The situation of the Site and its surrounding areas at the time of consideration of the s.16 application by the RNTPC is described in paragraph 6 of **Annex A**. There has been no material change in the situation of the area since then.

(a) The Site is:

- (i) located at the south-western part of Sai Kung Town;
- (ii) accessible from Hong Kin Road;
- (iii) currently occupied by temporary structures for storage purpose mainly within area covered by a short term waiver (STW) for storage purpose; and
- (iv) falling within the consultation zone of Pak Kong Water Treatment Works (PKWTW), which is a Potentially Hazardous Installation (PHI).

(b) The surrounding areas have the following characteristics:

- (i) to its north and northwest are storage of construction materials/metal recycling warehouse and a concrete batching plant held under short term tenancies (STTs) and STWs;
- (ii) to its further north is Hiram's Highway;
- (iii) to its immediate east is a vegetated slope zoned "Green Belt" ("GB"), and Sai Kung Fire Station is located at the northeast of the Site across Hong Kin Road; and
- (iv) the Tsiu Hang Special Area and Lions Nature Education Centre are located to its south.

#### Planning Intention

4.2 The "R(E)2" zone is intended primarily for phasing out of existing industrial uses through redevelopment (or conversion) for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of Industrial/Residential (I/R) interface problem.

### Previous Application

4.3 There is no previous application at the Site.

### Similar Applications

4.4 There are 2 approved similar applications (No. A/SK-SKT/10 and 14) primarily for residential uses on the “R(E)1” zone to the northeast of the Site. The applications were approved with conditions by the RNTPC on 22.1.2016 and 2.3.2018 respectively mainly on grounds of general compliance with the planning intention of “R(E)1” zone, not susceptible to adverse impacts from traffic and noise emissions, and no significant impacts on sewerage, drainage, risk and environmental aspects. Application No. A/SK-SKT/10 has lapsed while Application No. A/SK-SKT/14 is still valid. Details of these approved applications are summarised at Appendix II of **Annex A**.

4.5 After the consideration of the current application at s.16 application stage, Applications No. A/SK-SKT/23 and 25 for proposed social welfare facility (residential care home for the elderly (RCHE)) and flat with minor relaxation of PR restriction and Applications No. A/SK-SKT/24, 26 and 27 for proposed social welfare facility (RCHE) with minor relaxation of PR restriction on the same “R(E)1” zone were rejected by the RNTPC on 18.12.2020 on grounds that the applicants fail to provide strong planning justifications and design merits for the proposed minor relaxation of PR and to demonstrate that a comprehensive redevelopment together with the adjacent sites within the same “R(E)1” zone could not be achieved.

## **5. Comments from Relevant Government Departments**

5.1 The following government departments maintain their previous comments on the s.16 application as stated in paragraph 8 of **Annex A**, which are recapitulated below:

### **Land Administration**

5.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) the Site comprises Lots 8 s.B, 9 s.A and 9 s.B in D.D. 212 and adjoining Government land. All the lots are old schedule agricultural lots held under the Block Government Lease. A STW (SW66) has been granted to permit Lot 8 s.B in D.D. 212 to be used for storage purposes and is now running on a quarterly basis (**Plan R-2**). Two structures each with an area of 65.04m<sup>2</sup> (one with a height not exceeding 3.96m and the other with a height not exceeding 3.05m) with a total roofed-over area not exceeding 130.08m<sup>2</sup> are permitted under the said waiver. The waiver may be terminated by either party by giving to the other three calendar months’ notice of termination;
- (b) the Site includes some unleased and unallocated Government land and encroaches onto the land held under a STT running on a quarterly basis for open storage purpose granted to a third party not related to the applicant. As there is no guarantee that the encroached area of

this STT could be made available for the development, the applicant may consider to exclude this encroached area from the Site;

- (c) the Site falls within the consultation zone of PKWTW, which is a PHI. Environmental Protection Department (EPD)'s comments should be sought in this regard;
- (d) the existing batching plant (north of the Site) falls primarily on the various parcels of private agricultural land which have been granted with STWs permitting the uses and structures for concrete batching plants and storage. According to the terms and conditions of the said waivers, the waivers may be terminated by either party (the waivee or the Government) by serving a three calendar months' notice. Whilst there is a mechanism to terminate the wavier, there is no guarantee that such termination notice would be served by the Government to facilitate the proposed development under the planning application; and
- (e) if the application is approved by the Board, the lot owner will need to apply to his office for a land exchange to effect the proposal. However, there is no guarantee that any land exchange application, with or without Government land involved, would be approved by the Government. Such land exchange application, if eventually approved, would be subject to such terms and conditions including the payment of a premium and an administrative fee as the Government considers appropriate at its sole discretion.

## **Traffic**

### 5.1.2 Comments of the Commissioner for Transport (C for T):

- (a) given that the Site is reserved for residential use on the OZP and taking into account the scale of the proposed development is relatively small, which consists of only 19 houses, the traffic impact from the proposed development is considered minimal;
- (b) no in-principle objection to the proposed development subject to the approval condition on "the design and provision of parking facilities for the proposed development to the satisfaction of the C for T or of the Board";
- (c) parking provision for private developments should comply with the requirement under Hong Kong Planning Standards and Guidelines (HKPSG). The number of parking spaces for Type A and Type B Houses (flat size less than 160m<sup>2</sup>) do not comply with HKPSG; and
- (d) the access road leading to the Site is not managed by the Transport Department.

## **Environment**

### 5.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he objects to the application;
- (b) the proposed residential development is located less than 5m from an active concrete batching plant under STWs in an area primarily zoned “R(E)2” on the OZP. It is undesirable from environmental planning point of view and will create landuse incompatibility problem unless there is a committed programme to phase out the industrial use located in the vicinity of the proposed residential development;
- (c) the landuse incompatibility problem would cause noise and dust nuisances and etc. to future residents of the proposed development (e.g. due to traffic of heavy vehicles, spillage of concrete slurry from concrete mixers, etc.) and lead to complaints. Dust nuisance arising from I/R interface problem cannot be accounted for in the quantitative Air Quality Impact Assessment (AQIA);
- (d) the responses to comments at Appendix Id of **Annex A** fail to address the potential I/R interface problem and there are outstanding technical comments set out in Appendix III of **Annex A**. Apart from the air quality assessment, there is no assessment on other environmental concerns, such as noise and hazard, etc., as the proposed development falls within the consultation zone of the PKWTW which is a PHI. From noise point of view, it is anticipated that the proposed development would be affected by traffic noise and the noise impact caused by the nearby fire station and adjacent concrete batching plant; and
- (e) regarding the approved planning application No. A/K15/119 mentioned in Item (a) of Appendix Id of **Annex A**, it is understood that the Board has already approved/is processing planning applications to phase out the existing concrete batching plants in Yau Tong Industrial Area for comprehensive residential and/or commercial development. On this application, there is no sign to phase out the active concrete batching plant located next to the proposed development, hence the planning application No. A/K15/119 is considered not relevant.

### **Urban Design and Landscape**

#### 5.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

##### Urban Design and Visual

- (a) the proposed development parameters with a BH of 9m at main roof level and SC less than 40% are in line with the restrictions stipulated in the OZP. The Site is substantially screened by existing roadside planting along Hong Kin Road and is visually blocked by the existing industrial workshop along Hiram’s Highway. The proposed development is considered not incompatible with the surrounding rural context with low-density low-rise developments;

- (b) with reference to Appendix 5 of the submission (Appendix Ia of **Annex A**), the proposed houses at the western portion of the Site would be in close proximity to an existing operating concrete batching plant. I/R interface problem is anticipated. The applicant is advised to provide relevant mitigation measures, including but not limited to buffer planting along the western boundary of the Site to alleviate the anticipated I/R interface problem, as well as, providing visual buffer between the proposed development and the surrounding natural environment;
- (c) the proposed development would abut an area zoned “GB” and “Country Park” (“CP”). Should any fence walls be erected along the Site boundary, the applicant is advised to adopt sensitive designs to minimise potential visual impact on the surrounding environment;
- (d) for the FI at Appendix Ib of **Annex A** providing responses to our advisory comment in paragraph (b) above, which is to address the I/R interface problem, concerned department like DEP would be in a better position to consider whether it is necessary to impose an approval condition to that effect from environmental perspective. However, from visual impact point of view, no approval condition is recommended;

#### Landscape

- (e) no objection in principle to the application from landscape planning point of view;
- (f) the Site with an area of about 3,810m<sup>2</sup>, is currently occupied by temporary structures for open storage use. Village houses and low-rise residential developments are found on its further north and east. There is no major vegetation found within the Site, and significant adverse impact on existing landscape resources within the application boundary is not anticipated; and
- (g) in view of the Site being separated by “GB” from major road, should the Board approve the application, it is not necessary to impose a landscape condition as its effect to enhancing the quality of public realm is not apparent.

#### Sewerage

##### 5.1.5 Comments of DEP:

there is no assessment on sewerage provision in the EA to demonstrate the environmental acceptability of the proposed residential development. An approval condition on the submission of a Sewerage Impact Assessment (SIA) and implementation of mitigation measures identified therein to the satisfaction of DEP or of the Board is suggested.

##### 5.1.6 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

it is noted that the development/project proponent has not submitted any SIA. Comment on the sewerage assessment, in particular whether a SIA report is required for the application should be sought from DEP. The sewerage assessment for the planning application needs to meet the full satisfaction of DEP, the authority of sewerage infrastructure.

### **Drainage**

#### 5.1.7 Comments of CE/MS, DSD:

- (a) the submission has not included any drainage assessment for comment. The developer/project proponent shall be requested to carry out Drainage Impact Assessment (DIA) in accordance with DSD Advice Note No. 1 “Application of Drainage Impact Assessment Process to Private Sector Process”. The DIA process provides a systematic approach in addressing drainage issues associated with the project. The primary objective of the DIA process is to demonstrate that with the implementation of necessary mitigation measures, the project will not cause an unacceptable increase in the risk of flooding in areas upstream of, adjacent to or downstream of the development; and
- (b) no comment on the application subject to the approval condition on the submission of a DIA and implementation of mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Board.

### **Risk Aspect**

#### 5.1.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) there is a high pressure town gas transmission pipeline (running along Hiram’s Highway) in the vicinity of the Site (**Plan R-2**). It is anticipated that the proposed development site will result in a significant increase in population in the vicinity of the above gas installation. A risk assessment would be required from the project proponent to assess the potential risks associated with the gas installation, having considered the proposed development. He agrees to impose an approval condition on the submission of risk assessment;
- (b) the future developer/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of the existing or planned gas pipes/gas installations within/in the vicinity of the proposed development site and any required minimum setback distance away from them during the design and construction stages of the development; and
- (c) the future developer/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department's Code of Practice on “Avoidance of Damage to Gas Pipes” 2<sup>nd</sup> Edition.

### **Geotechnical**

- 5.1.9 Comments of the Head of the Geotechnical Engineering Office, the Civil Engineering and Development Department (H(GEO), CEDD):

no comment on the application subject to the approval condition on the submission of a revised Geotechnical Planning Review Report (GPRR) and implementation of the mitigation measures recommended therein to the satisfaction of the Director of Civil Engineering and Development or of the Board.

### **District Officer's Comments**

- 5.1.10 Comments of the District Officer(Sai Kung), Home Affairs Department (DO(SK), HAD):

- (a) no comment on the application; and
- (b) the local view should be fully considered. Ex-chairman of Sai Kung District Council, Chairman of Sai Kung Rural Committee and Chairman of Sai Kung Area Committee raise strong objections to the application. Their main concern is that the proposed development will increase the population and add to the heavy traffic in Sai Kung Town, especially the section between Place of Worship and Po Lo Che Road. Residential development along Hiram's Highway will not be supported by the local community until the improvement works of Hiram's Highway are completed.

- 5.2 The following government departments maintain their previous comments on the s.16 application as stated in paragraph 8 of **Annex A**:

- (a) Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department;
- (b) Director of Fire Services; and
- (c) Chief Engineer/Construction, Water Supplies Department.

- 5.3 The following government departments maintain their previous views of having no objection to or no comment on the review application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Agriculture, Fisheries and Conservation (DAFC);
- (c) Executive Secretary (Antiquities and Monuments) of Antiquities and Monuments Office, Development Bureau; and
- (d) Chief Engineer (Works), HAD.

## **6. Public Comments Received During Statutory Publication Periods**

- 6.1 On 8.5.2020, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.5.2020, 3 public comments have been received on the review application from a Member of the Sai Kung District Council and individuals, all raising objection (**Annex E**). The grounds of objection are that the concrete batching plant in the vicinity of the Site

would induce noise and air quality impacts; the proposed development would cause environmental and ecological impacts to Tsiu Hang Special Area and Lion's Nature Education Centre; overloading the ageing sewerage system; deteriorating the existing transport network in Tui Min Hoi and road traffic safety concern; the Site is surrounded by the "Green Belt" zone which may be occupied by developers as their private backyards; no demand for houses in Sai Kung; not in line with the planning intention of major population growth in the northern part of Sai Kung Town; and alternative uses supporting the community are more appropriate.

- 6.2 At the stage of s.16 application, 7 public comments to the application were received with 6 comments objecting to the application and 1 providing comment. Details are in paragraph 9 of **Annex A**.

## **7. Planning Considerations and Assessments**

- 7.1 The application is for a review of the RNTPC's decision on 20.3.2020 to reject the subject application for proposed 19 houses at the Site. The application was rejected for the reason that the applicant fails to demonstrate that the interface problems with the adjacent industrial use can be satisfactorily resolved and that the proposed development would not be subject to adverse environmental impacts. The applicant has not submitted any information to support the review application. There has been no material change in planning circumstances for the Site since the rejection of the application by the RNTPC. The planning considerations and assessments as set out in paragraph 10 of **Annex A** remain valid.
- 7.2 The Site is currently occupied by some temporary structures for storage purpose. There are some existing industrial uses including storage of construction materials/metal recycling warehouse and a concrete batching plant in the vicinity of the Site. The planning intention of the "R(E)2" zone is primarily for phasing out of existing industrial uses through redevelopment for residential use. 'House' use within the "R(E)2" zone requires planning permission from the Board to ensure that effective mitigation measures would be implemented to resolve the interface problems with the remaining industrial uses in the vicinity. Although the proposed house development is in line with the planning intention of the "R(E)2" zone to phase out the existing industrial uses, the interface problems with the existing industrial uses in the vicinity of the Site have not been satisfactorily resolved in the application.
- 7.3 The Site is in close proximity to existing industrial operations including storage of construction materials, warehouse and concrete batching plant (**Plan R-2**). In particular, the concrete batching plant is about 5m to the north. DLO/SK advises that the concrete batching plant is held under STWs and although there is a mechanism to terminate the waivers, there is no guarantee that such termination notice would be served by the Government to facilitate the proposed development. Hence, it is uncertain as to whether the concrete batching plant will be terminated or relocated in the near future. DEP advises that the proposed residential development would create landuse incompatibility problem with the concrete batching plant. It would cause noise and dust nuisances to future residents. DEP objects to the application in view of the I/R interface issue of the proposed development as dust nuisance arising from I/R interface problem cannot be accounted for in the quantitative AQIA (Appendix Ic of **Annex A**). Regarding the similar case (Application No. A/K15/119) mentioned by the applicant, an Environmental Assessment was submitted by the applicant to demonstrate that the proposed

development would be environmentally acceptable and the applicant had also committed to provide a number of measures in the building layout design to mitigate the environmental impacts and nuisance from the industrial operations in the vicinity, in which DEP had no objection to the application from environmental perspective. Moreover, since the consideration of the subject application by the RNTPC, a planning application (No. A/K15/121) covering the concrete batching plants adjacent to the aforesaid similar case (No. A/K15/119) has been approved with conditions on 26.6.2020 such that the progressive phasing-out of polluting land uses in Yau Tong Industrial Area will be further enhanced. For the current application, DEP also advises that there is no assessment on noise impact in the revised EA Report (Appendix Ic of **Annex A**) to demonstrate the environmental acceptability of the proposed development. Besides, there is no assessment on sewerage and drainage impacts in the submission to demonstrate that the proposed development would not induce adverse sewerage and drainage impacts.

- 7.4 The proposed development would result in an increase in population within the Consultation Zone of PKWTW. There is also a high pressure town gas transmission pipeline (running along Hiram's Highway) in the vicinity of the Site (**Plan R-2**). There is no risk assessment in the application to demonstrate that the proposed development would be acceptable from risks point of view in relation to the PHI and gas installations.
- 7.5 There have been public comments during the s.16 application stage including those referred by DO(SK), HAD, objecting to the application mainly on traffic impacts. At the s.17 review stage, there are 3 public comments received objecting to the review application mainly on grounds of the I/R interface issue, traffic, environmental, ecological and sewerage impacts. C for T advises that as the scale of the proposed development is relatively small, traffic impact from the proposed development is considered minimal. On the ecological impact, DAFC has no comment on the application from nature conservation perspective. Regarding other concerns on land uses and I/R interface problem, the assessments in paragraphs 7.2 to 7.4 above are relevant.

## **8. Planning Department's Views**

- 8.1 Based on the assessments made in paragraph 7, having taken into account the public comments mentioned in paragraph 6, and given that there is no change in the planning circumstances, the Planning Department maintains its previous view of not supporting the review application for the following reason:

the applicant fails to demonstrate that the interface problems with the adjacent industrial use can be satisfactorily resolved and that the proposed development would not be subject to adverse environmental impacts.

- 8.2 Alternatively, should the Board decide to approve the application on review, it is suggested that the permission shall be valid until 29.1.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following approval conditions and advisory clauses are suggested for Members' consideration:

### Approval Conditions

- (a) the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (b) the design and provision of parking facilities for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission of a Quantitative Risk Assessment in relation to the Pak Kong Water Treatment Works to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (d) the submission of a Quantitative Risk Assessment in relation to the high pressure transmission pipeline (running along Hiram's Highway) in the vicinity of the Site to the satisfaction of the Director of Electrical and Mechanical Services or of the Town Planning Board;
- (e) the submission of a Drainage Impact Assessment and implementation of the mitigation measures identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (f) the submission of a Sewerage Impact Assessment and implementation of the sewerage improvement measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board;
- (g) the submission of a revised Environmental Assessment and implementation of mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board; and
- (h) the submission of a revised Geotechnical Planning Review Report and implementation of the mitigation measures recommended therein to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board.

### Advisory Clauses

8.3 The recommended advisory clauses are attached at **Annex F**.

## **9. Decision Sought**

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, should the Board decide to approve the review application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

**10. Attachments**

<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo
<b>Plans R-4a to 4c</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/SK-SKT/22B
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 20.3.2020
<b>Annex C</b>	Secretary of the Board's letter dated 8.4.2020
<b>Annex D</b>	Applicant representative's letter dated 27.4.2020
<b>Annex E</b>	Public Comments
<b>Annex F</b>	Advisory Clauses

**PLANNING DEPARTMENT  
JANUARY 2021**