

Extract of Minutes of the Rural and New Town Planning Committee Meeting held on 4.7.2025

Agenda Item 29

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/1067 Proposed House (New Territories Exempted House - Small House) in
“Village Type Development” and “Residential (Group D)” Zones, Lots
3003 S.D and 3005 RP in D.D. 111, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-PH/1067)

Presentation and Question Sessions

45. With the aid of some plans, Mr Adrian Y.G. To, STP/FSYLE, briefed Members on the background of the application, the proposed development, departmental and public comments, and the planning considerations and assessments as detailed in the Paper. The Planning Department (PlanD) did not support the application.

46. Some Members raised the following questions:

- (a) whether the footprint of the proposed Small House could be confined within the “Village Type Development” (“V”) zone without encroachment onto the “Residential (Group D)” (“R(D)”) zone, and if the Small House application could be confined within the “V” zone, whether planning application would be required; and
- (b) whether the boundary of the village ‘environs’ (‘VE’) of Wang Toi Shan was available.

47. In response, Mr Adrian Y.G. To, STP/FSYLE, with the aid of some plans, made the following main points:

- (a) PlanD, after reviewing the application with the applicant, verified that there was insufficient room to accommodate the entire Small House footprint within the “V” zone. If the proposed Small House could be confined within the “V” zone, planning application would not be required; and

- (b) the 'VE' boundary of Wang Toi Shan was unavailable, but the Lands Department (LandsD) confirmed that the application site (the Site) fell outside the 'VE' of any recognised village.

48. Noting that about 60% of the Small House footprint fell within the "V" zone, a Member was concerned whether the Committee could properly assess the application without knowing the 'VE' boundary. In response, Mr Adrian Y.G. To, STP/FSYLE reiterated the aforementioned advice from LandsD related to the 'VE', and explained that according to assessment criterion (b) of the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria), if more than 50% of the proposed NTEH/Small House footprint was located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint fell within the "V" zone, provided that there was a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria could be satisfied. As such, the primary issue of the current application was whether there was "general shortage of land" in the concerned "V" zone. As there was about 27.9 ha of available land within the "V" zone of Wang Toi Shan (equivalent to about 1,116 Small House sites), land was sufficient to meet the outstanding Small House applications and the 10-year Small House demand forecast which were 85 and 1,020 respectively. Favourable consideration should therefore not be recommended for this application. The Chairperson supplemented that the application was not eligible for favourable consideration under the Interim Criteria.

Deliberation Session

49. With reference to a previous judicial review (JR) case in which the court allowed a Small House application on a site straddling two development zones on consideration that the applicant was unable to purchase suitable land within the "V" zone for Small House development though sufficient land was found available in the concerned "V" zone, a Member expressed that it was unfortunate that the Lot of the Site (i.e. Lot 3003 S.D in D.D. 111) straddled "V" and "R(D)" zones. Noting that 'House' was a Column 2 use within the "R(D)" zone which was intended for low-rise and low-density residential developments, two Members asked whether the current application warranted sympathetic consideration in view of its planning context. A Member opined that lot boundaries in the New Territories were

often irregular due to historical land transactions, necessitating careful consideration. In response, the Chairperson said that the zoning boundaries on outline zoning plans were broad-brush in nature and would not closely follow the boundaries of individual lots. Similar cases where lots were split by zoning boundaries had occurred previously, and the Committee would assess applications on a case-by-case basis and might give sympathetic consideration based on the individual merits of the application. For the current application, the major consideration as per assessment criterion (b) of the Interim Criteria was whether there was sufficient land within the “V” zone for Small House development. As far as the “R(D)” zone was concerned in this case, both low-rise residential development and Small House development would require planning permission from the Town Planning Board. The Secretary supplemented that the planning intention of the “R(D)” zone was for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It was not intended for Small House development, which should be concentrated within the “V” zone.

50. As a follow-up question, a Member asked if the applicant applied for low-rise residential development at the same Site instead, whether the application would be rejected as it was not entirely in line with the planning intention of the “V” zone. The Member was concerned that there might be a situation where land within the “R(D)” zone or the “V” zone would become undevelopable though they were intended for development. In response, the Chairperson explained that each application would be considered on a case-by-case basis, and Members should carefully consider whether there were compelling justifications to deviate from the established assessment criteria and whether approval of the application would set a precedent for similar applications. A Member concurred and said that the Committee should focus on the applicant’s intent, i.e. development of a Small House. Even the application was rejected, the Site would not be deprived of its development right and potential. Another Member added that as there was sufficient land within the “V” zone to meet the demand for Small House development, it was considered more appropriate to concentrate Small House development within the “V” zone. Moreover, since land was available within the “V” zone, the application did not meet the assessment criteria that warranted favourable consideration even with a proposed Small House footprint of not less than 50% (i.e. about 60%) falling within the “V” zone.

51. Having regard to the High Court’s judgment of the aforementioned JR case, the

Vice-chairperson enquired whether the applicant had demonstrated efforts to identify suitable sites within the “V” zone or explore alternative options. In response, the Chairperson said that the situation of the JR case was unique and differed from that of the current application. The application site of the JR case straddled the “V” and the “Comprehensive Development Area” (“CDA”) zones and was outside the scope of the approved master layout plan for the “CDA” zone, thus warranted special consideration due to being otherwise undevelopable. Nevertheless, the Site of the current application did not present such unique circumstances as the “R(D)” zone remained developable.

52. The Chairperson summarised that while having diverse views on the application, majority of Members did not support the application having considered the Interim Criteria, i.e. when there was sufficient land within the “V” zone to meet the Small House demand, Small House developments that fell outside “V” zones would not normally be approved. The JR case which partially fell within the “CDA” zone was unique and differed from the current application which partially fell within the “R(D)” zone, as the concerned lot under the current application retained the potential to be combined with adjacent lot for development. The Committee’s decision to reject the application was made in accordance with the Interim Criteria. Should the applicant choose to reapply, more evidence of practical difficulties and justifications as to why the proposed Small House development could not be confined within the “V” zone should be submitted to the Committee for reconsideration based on the individual merits of the case.

[Mr Ryan M.K. Ip left the meeting during deliberation.]

53. After deliberation, the Committee decided to reject the application. The reason was:

“land is still available within the “Village Type Development” (“V”) zone of Wang Toi Shan which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.”

[The Chairperson thanked PlanD’s representatives for attending the meeting. They left the

meeting at this point.]