

TPB Paper No. 10632

**For Consideration by
the Town Planning Board on 22.5.2020**

**REVIEW OF APPLICATION NO. A/NE-KLH/562
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House (NTEH) – Small House)
in “Green Belt” and “Village Type Development” Zones**

Lot 981 S.D in D.D. 9, Nam Wa Po, Tai Po, New Territories

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1. Background

- 1.1 On 25.1.2019, the applicant, Mr. Isaac LAM represented by Euro Asia Construction Engineering Limited, sought planning permission to build an NTEH (Small House) on the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned mainly “Green Belt” (“GB”) (about 135m² or 74%) and partly “Village Type Development” (“V”) (about 47m² or 26%) on the approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11 (**Plan R-1**).
- 1.2 On 31.5.2019, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
- (a) the proposed development is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from this planning intention; and
 - (b) land is still available within the “V” zone of Nam Wa Po 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-KLH/562A (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 31.5.2019 (Annex B)
 - (c) Secretary of Town Planning Board’s letter dated 21.6.2019 (Annex C)
- 1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 28.2.2020 for consideration of the review application has been rescheduled, and the Board has agreed to adjourn consideration of the application. The review application is now scheduled for consideration by the Board at this meeting.

2. Application for Review

On 11.7.2019, the applicant applied, under s.17(1) of the Ordinance, for review of the RNTPC's decision to reject the application (**Annex D1**). On 11.10.2019, the Board, at the request of the applicant, agreed to defer the consideration of the review application for two months to allow time for him to prepare further information to support the review application. The applicant submitted further information on 10.12.2019 (**Annex D2**) including a supplementary planning statement with proposed layout plan, sewerage plans, and land availability and status analysis shown on Drawings **R-1** to **R-7**.

3. Justifications from the Applicant

The justifications put forth by the applicant in support of the review application are detailed in the supplementary planning statement at **Annex D2**. They can be summarised as follows:

- (a) the Site falls within the village 'environs' ('VE') of Nam Wa Po and the proposed development is in line with the Government's Small House Policy;
- (b) the development of Liantang/Heung Yuen Wai Boundary Control Point and associated works, particularly Fanling Highway Interchange, have transformed the surrounding environment of Nam Wa Po from a peaceful countryside decades ago into a transportation interchange;
- (c) the proposed development, located immediately adjacent to the existing cluster of Small Houses, should be considered as appropriate to concentrate Small House development for a more orderly development pattern, efficient use of land and provision of infrastructures and services;
- (d) strong support to the application is available from Mr Lam Yik Kuen (Chairman of Tai Po Rural Committee, Committee Member of New Territories Heung Yee Kuk and Indigenous Inhabitant Representative of Nam Wa Po) with justifications as follows:
 - (i) Tso/Tong's land is no longer available for Small House development in Nam Wa Po as the Tso/Tong of that village (Lam Wing Kat Hall) has stopped carving out any ancestral land for indigenous villagers to build village houses since 1980s;
 - (ii) the area of land zoned "V" is not equivalent to the land area available/suitable for Small House development. There are land areas with irregular shapes, passageways or spaces between existing Small Houses which are not large enough for building Small Houses;
 - (iii) listing all the vacant land in the "V" zone as land that can be available for Small House development is against Government policy and does not correlate with the actual operation and layout of the village;
 - (iv) the High Court ruled in April 2019 that the use of Government land for Small House development was unconstitutional. It is unreasonable and unfair to count Government land in the "V" zone as land available for the Small House development;

- (v) with the change of surrounding development context as mentioned in paragraph 3(b) above and the population increase of indigenous villagers, the delineation of “V” and “GB” zones should be reviewed;
 - (vi) land within the curtilage of the existing Small Houses should be excluded from estimation of land available for Small House development as it is unlikely that the owners of those Small Houses will be willing to sell the land to other people for building houses;
 - (vii) there are several large lots on the southern portion of the “V” zone owned by Tso/Tong of the neighbouring Tai Hang Village. These lots will not be sold or used for the development of Small Houses by the indigenous villagers of Nam Wa Po. Furthermore, the process of selling or ceding ancestral land is far more complicated than the sale and purchase of land by individuals;
 - (viii) the layout of Nam Wa Po Village is designed with mainly rows of village houses with vertical and horizontal lanes to facilitate ventilation, drainage and management. The indigenous villagers are unwilling and would not accept that every vacant space (including the Tso/Tong’s land) in the “V” zone could be used for building Small Houses; and
 - (ix) most of the Tso/Tong’s land of “Lam Wing Kat Hall” comprises slopes, tree and wood areas or areas that have been used to build roads, parking lots and villagers’ rest areas, etc., which could not be used for building Small Houses at all;
- (e) according to the land availability and status analysis conducted by the applicant taking into account the views in paragraph 3(d) above (**Drawings R-4 to R-7**), only about 1,465m² of land (equivalent to 6 Small Houses) in the “V” zone is available for Small House development, which is insufficient to meet the 18 outstanding Small House applications and the future 10-year Small House demand of about 185 sites. Therefore, there is an acute shortage of available land within “V” zone of Nam Wa Po to meet the current and future Small House demand;
- (f) the circumstances of the current application is akin to two similar applications No. A/NE-KLH/330 and 463 approved by the Board in 2005 and 2014 respectively. Sympathetic consideration should also be granted for the current application;
- (g) the proposed development complies with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) in that more than 50% of the proposed NTEH footprint falls within the ‘VE’ of the recognized village; there is a general shortage of land in meeting the demand for Small House development in “V” zone; the proposed development is generally compatible in terms of land use, scale, design and layout with the surrounding area/development, would not encroach onto the planned road network, would not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas, would be connected to the existing or planned sewerage system; and is in compliance with the Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’;

- (h) there is no objection to the application from relevant Government departments;
- (i) the existence of all the above mentioned circumstances have provided strong planning justifications to justify the approval of the application;
- (j) the applicant would try his very best to fulfill approval conditions within a stipulated time limit should the application be approved and would like to express his willingness to undertake environmental improvement works for the Site and carry out ameliorative measures; and
- (k) taking into account the difficult economic and political situation at present and the financial situation of the applicant, the Site is the only land resource for the applicant to develop Small House. In view of no local objection and the support and justifications given in paragraph 3(d) above, the applicant should merit sympathetic consideration.

4. The Section 16 Application

The Site and its Surrounding Areas (Plans R-1, R-2a, R-3 and R-4)

- 4.1 The situation of the Site and the surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraphs 8.1 and 8.2 of **Annex A**. There has not been any major change in planning circumstances of the area since then.
- 4.2 The Site is:
 - (a) vacant with groundcovers;
 - (b) located at the eastern fringe of Nam Wa Po;
 - (c) entirely within the 'VE' of Nam Wa Po; and
 - (d) accessible by a local track and in proximity to a paved driveway in the east.
- 4.3 The surrounding areas are predominantly rural in character comprising scattered tree groups and village houses. Village clusters are mainly found to the west of the Site.

Planning Intentions

- 4.4 The planning intention of the "GB" zone is primarily for defining the limit of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 4.5 The planning intention of the "V" zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

Assessment Criteria

- 4.6 The Interim Criteria was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at Appendix II of **Annex A**.

Town Planning Board Guidelines

- 4.7 The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "Green Belt" zone under section 16 of the Town Planning Ordinance', which is relevant to the consideration of the s.16 application, is still effective. The relevant assessment criteria of the Guidelines are summarised in paragraph 5 of **Annex A**.

Previous Application

- 4.8 There is no previous application at the Site.

Similar Applications

- 4.9 When the s.16 application was considered by the RNTPC on 31.5.2019, there were two similar applications (No. A/NE-KLH/330 and 463) for Small House development, covering the same site and submitted by the same applicant, within the same "GB" zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. There has been no change in the number of similar applications since then.
- 4.10 Both applications were approved by the RNTPC in 2005 and 2014 respectively mainly for the reasons of complying with the Interim Criteria in that there was general shortage of land in the concerned "V" zone to meet the demand for Small House development at the time of consideration; more than 50% of the proposed Small House footprint fell within the 'VE' of the concerned village; and the proposed development was able to be connected to the planned sewerage system in the area. Application No. A/NE-KLH/463 was also approved on sympathetic consideration as the application site was the subject of a previously approved case.
- 4.11 Details of the above similar applications are summarized at Appendix III of **Annex A** and their locations are shown on **Plans R-1** and **R-2a**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 10 and Appendix IV of **Annex A**.
- 5.2 For the review application, relevant Government departments have been further consulted and their views on the review application are summarized as follows:

Land Administration

5.2.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the updated number of outstanding Small House applications for Nam Wa Po is 16 (the figure was 18 at the s.16 application stage) whilst the 10-year Small House demand remains unchanged at 185;
- (b) Nam Wa Po is a pre-1898 recognised village in Tai Po;
- (c) according to the record, Lam Wing Kat Tong holds Lot No. 595 S.B ss.1 RP, Taxload Lot Nos. T58 S.A ss.45, T85 S.A ss.46 and T85 S.A RP, all in D.D. 9. A Small House application from a villager of Nam Wa Po was received on 8.10.2019 on Taxload Lot No. T85 S.A ss.47, which was carved out from Taxload Lot No. T85 S.A RP in 2019. Apart from the above, DLO/TP could not verify the details of Tso/Tong's land claimed by the applicant in his submission as no such information is available;
- (d) the High Court ruled on 8.4.2019 and confirmed in the orders granted on 30.4.2019 that the private treaty grant and land exchange arrangements involving Government land under the Small House Policy were unconstitutional. Processing of private treaty grant and land exchange for Small House on Government land have been suspended; and
- (e) he maintains his previous views on the s.16 application which are recapitulated below:
 - (i) no objection to the application;
 - (ii) the applicant is an indigenous villager of Nam Wa Po, Tai Po, as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained. His Small House application for the Site has been received by LandsD;
 - (iii) the Site is held under Block Government Lease demised for agricultural use;
 - (iv) the Site is not covered by any Modification of Tenancy or Building Licence;
 - (v) if and after planning approval has been given by the Board, LandsD will process the Small House application. However, there is no guarantee at this stage that the Small House application would be approved. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee

to the grant of a right of way to the Small House concerned or approval of the emergency vehicular access thereto; and

(vi) the Site falls within the 'VE' of Nam Wa Po.

5.3 The following Government departments have no further comments on the review application and maintain their previous views on the s.16 application in Appendix IV of **Annex A**, which are recapitulated as follows:

Traffic

5.3.1 Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection to the application from traffic engineering point of view; and
- (b) the road/footpath next to the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the road and footpath should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Environment

5.3.2 Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within "GB" and "V" zones, and is within WGG. The applicant proposes to connect the Small House to the newly constructed public sewer at about 20m to the east of the Site. The public sewerage system is ready for connection. There is sufficient level drop between the Site and the public sewer, and the public sewerage system has sufficient capacity to accommodate discharge from the proposed Small House; and
- (b) he has no objection to the application on the conditions that:
 - (i) the proposed Small House will be connected to the public sewer;
 - (ii) no actual construction of the proposed Small House until the public sewerage system is available for connection;
 - (iii) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer;
 - (iv) written consent(s) can be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lots; and
 - (v) the cost of sewer connection will be borne by the applicant.

Landscape

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

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising scattered tree groups and village houses. A paved driveway is in proximity to the east of the Site. The proposed development is not incompatible with the surrounding environment;
- (c) the Site is vacant and cover with groundcovers. Two young common fruit trees including *Dimocarpus longan* (荔枝) and *Psidium guajava* (番石榴) in fair condition and numbers of existing trees that are heavily pruned or topped are found within the Site. Although the proposed layout is in direct conflict with existing trees, given the affected trees are common species and can be easily found in local market, adverse landscape impact arising from the proposed development can be tolerated; and
- (d) should the application be approved by the Board, given that adverse visual impact due to the proposed development is not anticipated and there is inadequate space for quality landscape to benefit the public realm, landscape condition is not recommended.

Drainage and Sewerage

5.3.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no existing DSD maintained public drains available for connection in the area. The applicant should have his own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the

adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (e) sewerage connection from the proposed Small House to the existing public sewerage system is feasible from drainage point of view.

5.3.5 Comments of the Chief Engineer/Consultant Management, Drainage Services Department (CE/CM, DSD):

- (a) no objection to the application from project interfacing point of view; and
- (b) the construction of public village sewerage at Nam Wa Po has been completed.

Nature Conservation

5.3.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) no strong view on the application from nature conservation point of view; and
- (b) the proposed development may affect some plants of common species.

Fire Safety

5.3.7 Comments of the Director of Fire Services (D of FS):

- (a) no comment on the application; and
- (b) the applicant is advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.

Water Supply

5.3.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest water course. The proposed Small House footprint falls entirely within the 'VE' of Nam Wa Po and DEP has advised that the Site is able to be connected to the public sewerage system in the area. Therefore, compliance with the Interim Criteria can

be reasonably established;

- (c) it is noted that DEP has no objection to the application provided that the applicant shall connect the proposed Small House to public sewer for sewage disposal. He supports DEP's view by imposing the following conditions:
 - (i) the foul water drainage system of the proposed Small House can be connected to the public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG; and
 - (iii) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the public sewerage system via relevant private lot; and
- (d) for the provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

5.4 The following Government departments maintain their previous views of having no comment on the review application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

6. Public Comments Received During Statutory Publication Period (Annex E)

6.1 On 19.7.2019 and 20.12.2019, the review application was published for public inspection. During the statutory public inspection periods, five public comments were received from The Hong Kong Bird Watching Society and Designing Hong Kong Limited (each submitted two comments) and an individual, all raising objection to the review application mainly on the grounds of being not in line with the planning intention of "GB" zone; being a "destroy first, build later" case; setting undesirable precedent; causing adverse environmental and ecological impacts; and land still being available within "V" zone.

6.2 Two public comments, both objecting to the application, received at the s.16

application stage are set out in paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The subject application for Small House development was rejected by the RNTPC on 31.5.2019 mainly on the grounds of being not in line with the planning intention of the “GB” zone; and land was still available within the “V” zone of Nam Wa Po for Small House development.
- 7.2 To support the review application, the applicant has put forward justifications, including a support letter from the Chairman of Tai Po Rural Committee (who is also a Committee Member of New Territories Heung Yee Kuk and the IIR of Nam Wa Po), claiming mainly that the land available in the “V” zone for Small House development is over-estimated by PlanD; the Site is close to existing village cluster and similar approved applications; the surrounding environment of Nam Wa Po has been significantly changed by nearby infrastructural development; and no adverse impacts arising from the proposed development are expected.
- 7.3 One of the main arguments raised by the applicant in support of the review application is that some of the available land within the “V” zone as estimated by PlanD are not suitable for Small House development. They include areas covered by tree/slope (Areas G1-G11 in **Drawing R-5**), Government land (Areas G1-G9 in **Drawing R-5** and B1-B15, B17-B18, B20-B24 and B26 in **Drawings R6** and **R7**), Tso/Tong’s land (Areas G10-G11 in **Drawing R-5** and B13-14, B16-B17, B21-B22 and B28-B29 in **Drawings R-6** and **R-7**), and private land with existing developments, proposed/existing access roads, car parks and outstanding/approved Small House applications (Areas G4 and G9 in **Drawing R-5** and B6-B7, B10-B11, B19-B23 and B26-B28 in **Drawings R-6** and **R-7**). In this regard, it should be noted that in estimating the land available for Small House development in “V” zone, PlanD has adopted a consistent approach and would make use of the latest available information. In general, the land occupied by major tree clusters, steep slopes, existing and approved village houses, roads and stream buffers will be deducted from the area available for Small House development. Thus Areas G1-G11 with tree/slope and part of Area B21 with Small House approval as mentioned above has already been excluded from land availability. Besides, land ownership is not a material consideration as it could be subject to change and land parcel could be subdivided to suit development needs. Government land and Tso/Tong’s land is included unless they are constrained by other factors such as those mentioned above. For the remaining areas claimed by the applicant as not suitable for Small House development, they are mainly occupied by internal/informal access, private gardens or open area of village houses, car parking areas, other temporary uses, and sites of outstanding Small House applications, which can be considered as a source of land supply.
- 7.4 In respect of the applicant’s claim that Government land in the “V” zone should not be counted as available land for Small House development in accordance with the High Court Judgement of the Judicial Review on the Small House Policy, it should be noted that the said High Court Judgement relates to the Small House Policy implemented by LandsD, which does not affect the Board’s functions under the Town Planning Ordinance. Pursuant to section 16 of the said Ordinance, the Board shall consider applications for planning permission for Small House development, and decide

whether to grant or refuse planning permission taking into account the relevant planning considerations.

- 7.5 According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Nam Wa Po is 16 (which was 18 at the s.16 stage) while the 10-year Small House demand forecast for the same village is 185. Based on the latest estimate by PlanD, about 2.27 ha of land are available within the "V" zone of Nam Wa Po for Small House development (**Plan A-2b**). While the land available within the "V" zone is insufficient to fully meet future Small House demand of 201 Small House sites, such available land (about 2.27 ha or equivalent to about 90 Small House sites) is capable to meet the outstanding 16 Small House applications (**Plan R-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, 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.
- 7.6 The applicant also argues that the circumstances of the current application are akin to two similar applications (No. A/NE-KLH/330 and 463) for Small House development in the same "GB" zone in vicinity of the Site (**Plans R-1 and R-2a**). It should be noted that these two similar applications, covering the same site and submitted by the same applicant, were approved in 2005 and 2014 respectively before the Board's adoption of a more cautious approach in August 2015. They were approved mainly for the reasons of generally complying with the Interim Criteria in that there was a general shortage of land in the concerned "V" zone to meet the demand for Small House development at the time of consideration; more than 50% of the proposed Small House footprint fell within the 'VE' of the concerned village; and the proposed development was able to be connected to the planned sewerage system in the area. Application No. A/NE-KLH/463 was also approved on sympathetic consideration as the application site was the subject of a previously approved case. The circumstances of the current application are not similar to these approved applications.
- 7.7 The proposed Small House development is not in line with the planning intention of the "GB" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Although DAFC has no strong view on the application from nature conservation point of view on a consideration that the proposed development may only affect some plants of common species, there is no strong justification for a departure from the planning intention of the "GB" zone.
- 7.8 The other planning considerations and assessments relating to the landscape impact of the proposed development, availability of public sewerage connection and compliance with the Interim Criteria, as set out in paragraphs 12.3 to 12.5 of **Annex A** respectively, are still valid, which are briefly recapitulated below:
- (a) the Site, located at the eastern fringe of Nam Wa Po (**Plan R-2a**), is vacant with groundcovers (**Plan R-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in

character comprising scattered tree groups and village houses (**Plans R-2a and R-3**). CTP/UD&L, PlanD has no objection to the application from the landscape planning perspective;

- (b) the Site falls within the upper indirect WGG. The applicant has proposed to connect the proposed Small House to the public sewerage system at Nam Wa Po (**Plan R-2a**) with consents obtained from affected lot owners. Both DEP and CE/C of WSD have no objection to the application; and
- (c) more than 50% of the footprint of the proposed Small House falls within the 'VE' of Nam Wa Po and the proposed development would be able to be connected to the public sewerage system (**Plan R-2a**). However, the land available within the "V" zone is capable to meet the outstanding 16 Small House applications (**Plan R-2b**). In this regard, 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.

7.9 Regarding the public comments objecting to the review application as mentioned in paragraph 6.1 above, Government departments' comments and the planning assessments 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 6.1 and given that there is no change in the planning circumstances since the consideration of the subject application by the RNTPC, the Planning Department maintains its previous view of not supporting the review application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "Green Belt" ("GB") zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from this planning intention; and
- (b) land is still available within the "V" zone of Nam Wa Po 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 27.3.2024, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies 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, if any, to be attached to the permission, and the date when the validity of the permission should expire.

10. Attachments

Drawings R-1 to R7	Layout plan, sewerage plans, land availability and status analysis submitted by the applicant
Plan R-1	Location plan
Plan R-2a	Site plan
Plan R-2b	Estimated amount of land available for Small House
Plan R-3	Aerial photo
Plan R-4	Site photo
Annex A	RNTPC Paper No. A/NE-KLH/562A
Annex B	Extract of minutes of the RNTPC meeting held on 31.5.2019
Annex C	Secretary of the Town Planning Board's letter dated 21.6.2019
Annex D1	Letter received on 11.7.2019 from the applicant's representative applying for a review of the RNTPC's decision
Annex D2	Further information received on 10.12.2019 from the applicant's representative
Annex E	Public Comments
Annex F	Recommended Advisory Clauses