

# **TOWN PLANNING BOARD**



**TPB Paper No. 10610**

**For Consideration by  
the Town Planning Board on 20.12.2019**

**REVIEW OF APPLICATIONS NO. A/NE-KLH/570  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House - Small House)  
in "Agriculture" Zone**

**Lot 857 RP in D.D. 9, Tai Wo Village, Tai Po, New Territories**



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**in “Agriculture” Zone**  
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**1. Background**

- 1.1 On 24.6.2019, the applicant, Mr. Chan Wah Kwong represented by Rocky Fung Surveying Company, sought planning permission to build a house (New Territories Exempted House (NTEH) - Small House) at the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Agriculture” (“AGR”) on the approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11 (**Plan R-1**).
- 1.2 On 16.8.2019, 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 “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
  - (b) land is still available within the “Village Type Development” (“V”) zone of Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructure and services.
- 1.3 For Members’ reference, the following documents are attached:
- (a) RNTPC Paper No. A/NE-KLH/570 (Annex A)
  - (b) Extract of minutes of the RNTPC meeting held on 16.8.2019 (Annex B)
  - (c) Secretary of Town Planning Board’s letter dated 6.9.2019 (Annex C)

**2. Application for Review**

The application submitted by the applicant under section 17(1) of the Ordinance for review of the RNTPC’s decision to reject the application was received by the Board on 25.9.2019 (**Annex**

D). The applicant has not submitted any written representation in support of the review application.

### 3. **The Section 16 Application**

#### **The Site and its Surrounding Areas (Plans R-1 to R-4)**

- 3.1 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**.
- 3.2 The Site is:
- (a) hard paved and partly fenced off;
  - (b) a piece of land bounded by footpaths and local tracks; and
  - (c) accessible by a local track.
- 3.3 The surrounding areas are predominantly rural in character occupied by village houses, temporary domestic structures and abandoned agricultural fields.

#### **Planning Intention**

- 3.4 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agriculture land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

#### **Assessment Criteria**

- 3.5 The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (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**.

#### **Background**

- 3.6 The Site is not involved in any active enforcement action/cases.

#### **Previous Applications**

- 3.7 The Site is the subject of three previous applications (No. A/NE-KLH/275, 445 and 543) for Small House development. Application No. A/NE-KLH/275 submitted by a different applicant was approved with conditions by the RNTPC on 21.9.2001 before criterion (i) of the Interim Criteria came into effect on 23.8.2002 mainly on the grounds

that the site fell within the 'VE' and there was a general shortage of land in meeting the Small House demand at the time of consideration.

- 3.8 Applications No. A/NE-KLH/445 and 543 were submitted by the same applicant of the current application. Application No. A/NE-KLH/445 was rejected by the Board on review on 22.2.2013 mainly for the reason of not complying with the Interim Criteria in that the proposed Small House located within the WGG would not be able to be connected to the planned sewerage system in the area as there was no fixed implementation programme at that juncture. For Application No. A/NE-KLH/543, it was rejected by the Board on review on 14.12.2018 mainly on the grounds of being not in line with the planning intention of "AGR" zone and land still being available within the "V" zone. Compared with the last previous application (No. A/NE-KLH/543), there is no change to the footprint and major development parameters of the proposed Small House under the current application.
- 3.9 Details of the previous applications are summarized at Appendix III of **Annex A** and the location is shown on **Plans R-1 and R-2**.

#### Similar Applications

- 3.10 When the s.16 application was considered by the RNTPC on 16.8.2019, there were 50 similar applications for Small House development within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000. Among those 30 applications located in close vicinity of the Site, 16 cases were approved and 14 were rejected (**Plan R-2a**). Since then, the number of similar applications remain unchanged.
- 3.11 Among the 16 approved applications, six of them (No. A/NE-KLH/271, 272, 273, 277, 279 and 281) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Another eight applications (No. A/NE-KLH/328, 341, 345, 346, 391, 392, 402 and 409) were approved between 2004 and 2010 before the planned sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010, mainly on the considerations that there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. The remaining two applications (No. A/NE-KLH/438 and 491) were approved in 2012 and 2015 respectively mainly on considerations that there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; the application sites were the subject of previous approvals (applications No. A/NE-KLH/345 and 346) submitted by the same applicants; and Environmental Protection Department and Water Supplies Department had no objection to the applications provided that the construction of the Small House would not commence before the completion of the planned sewerage system and the proposed houses should be connected to future public sewers when available.
- 3.12 For the 14 rejected applications (No. A/NE-KLH/299, 303, 321, 360, 362, 374, 380, 444, 455, 478, 479, 484, 526 and 548), they were rejected between 2003 and 2018 mainly on the grounds that the proposed developments located within WGG were not able to be connected to the planned sewerage system in the area either because the application sites were not covered by any planned public sewers or there was no fixed programme for implementation of the planned sewerage system serving Yuen Leng Village. Applications No. A/NE-KLH/526 and 548 were also rejected after the Board's adoption of a more cautious approach in August 2015 as land was still available within

the “V” zone for Small House development. The planning circumstances of the current application are similar to these two rejected applications (No. A/NE-KLH/526 and 548) in that land was still available within the “V” zone for Small House development.

- 3.13 Details of the above similar applications are summarized in Appendix IV of **Annex A** and their locations are shown on **Plans R-1** and **R-2a**.

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

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

##### Land Administration

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

- (a) the updated number of outstanding Small House applications for Yuen Leng, Kau Lung Hang and Tai Wo is 82, 51 and 43 respectively (which is 83, 50 and 43 at the s.16 application stage), whilst the 10-year Small House demand forecast for Tai Wo, Yueng Leng and Kau Lung Hang remains unchanged at 133, 261 and 100 respectively; and
- (b) he has no further comments on the review application and 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 Tai Wo Village of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, his eligibility of Small House grant has yet to be ascertained;
  - (iii) the subject lot is held under Block Government Lease demised for agricultural use. Small House application submitted by the applicant for the Site is still under processing;
  - (iv) the Site is not covered by any Modification of Tenancy or Building Licence;
  - (v) the Site falls entirely within the ‘VE’ of Tai Wo Village;
  - (vi) if and after planning permission 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 proposed Small House or approval of the emergency vehicular access thereto; and

- (vii) the sewerage proposal is required to be approved by and to the satisfaction of Drainage Services Department (DSD). If any private lots will be affected, the applicant is required to secure the consent in the form of a Deed from the relevant land owners for connection of sewerage pipes to public sewers if necessary.

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

#### Traffic

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

- (a) in general, he has reservation on the application. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, he considers that the application only involving development of a Small House can be tolerated on traffic grounds.

#### Environment

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

- (a) the proposed Small House is located some 110m and 140m from East Rail Line (EAL) and Fanling Highway respectively. It is partially shielded from the EAL and the highway by other Small Houses. Trackside noise barriers have been erected along the EAL and roadside noise barriers at concerned section of the highway are being constructed under the Widening Project of Tolo Highway/Fanling Highway between Island House Interchange and Fanling to protect those village developments closer to the road. As such, no insurmountable railway and traffic noise impact is anticipated;
- (b) the Site falls within “AGR” zone and is within WGG. The planned public sewer to serve the Site is part of the Yuen Leng village sewerage scheme, which was degazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption. Currently there is no fixed timetable for implementing the said sewerage scheme. Instead, the applicant proposes to connect the proposed Small House to a public sewer at a considerable distance of about 150m to the west of the Site, which also comprises 4 intermediate private manholes.

As the public sewer has sufficient capacity to accommodate the discharge from the proposed Small House, and there is sufficient level drop in between, he has no adverse comment on the applicant's proposed connection to the public sewer. The applicant should obtain consent from the adjacent lot owner(s) and LandsD for construction and maintenance of the proposed intermediate private manholes and sewer pipes;

- (c) he has no objection to the application on the conditions that:
  - (i) the proposed house will be connected to the public sewer;
  - (ii) written consent(s) can be obtained from the adjacent lot owner(s) for the construction and maintenance of the sewage pipes and intermediate private manholes across adjacent lot(s);
  - (iii) adequate land space within the Site will be reserved for connection of the proposed house to the public sewer; and
  - (iv) the cost of construction of private sewerage, intermediate private manholes and sewer connection will be borne by the applicant; and
- (d) although no insurmountable technical difficulties are envisaged for the sewer connection, the following advisory clause is applicable:

the applicant is advised to pay attention to avoiding potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant is required to submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and Development Bureau's Practitioners Guidelines on "Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections" regarding the procedures to be followed and the maintenance responsibility of the connection works.

### Landscape

#### 4.3.3 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, village houses and abandoned farmland. Although the proposed development is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (c) the Site is vacant and hard paved. No trees are found within the Site. Adverse impact on landscape resources due to the proposed development is not anticipated. A number of similar applications adjacent to the Site had been approved; and



- (d) since the footprint of the proposed house covers most of the Site, there is inadequate space for meaningful landscape to benefit public realm. Should the application be approved by the Board, it is considered unnecessary to impose any condition for submission and implementation of landscape proposal.

#### Drainage and Sewerage

##### 4.3.4 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, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or of the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The proposed development, located on unpaved ground and on slope, will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant is also required to maintain such 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; and
- (d) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m should be maintained between the proposed development and the top of the embankment of existing streamcourses/ ponds/rivers.

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

the public sewerage works in the area of Tai Wo had been completed under PWP Item No. 4375DS Sewerage in Ping Kong, Fu Tei Pai and Tai Wo. He has no comment on the application subject to the following:

- (i) the existing public sewerage works would have adequate capacity to

meet the demand arising from the proposed development; and

- (ii) the applicant shall complete the necessary sewerage works to connect the discharge from the proposed development to the public sewerage at his own cost.

#### Agriculture

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

the Site is surrounded by domestic structures. As the potential for agricultural rehabilitation is considered low, he has no strong view on the application.

#### Fire Safety

##### 4.3.7 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 the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

#### Water Supply

##### 4.3.8 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. As the proposed Small House footprint is 100% within the 'VE' of Tai Wo Village, compliance of the application with Item B(a) of the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) can be reasonably established;
- (c) it is noted that DEP has no adverse comment on the applicant's proposed connection to the public sewer at a considerable distance of about 150m to the west of the Site. Thus, compliance of the application with Item B(i) of the Interim Criteria can be reasonably established;
- (d) DEP states that the applicant shall connect the house to the public sewer. He supports DEP's views 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 sewerage system via relevant private lot; and
  - (e) for 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.
- 4.4 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) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
  - (c) Project Manager/North, Civil Engineering and Development Department;
  - (d) Director of Electrical and Mechanical Services; and
  - (e) District Officer/Tai Po, Home Affairs Department.

## **5. Public Comment Received During Statutory Publication Period (Annex E)**

- 5.1 On 4.10.2019, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from Designing Hong Kong Limited raising objection to the application mainly on the grounds of being not in line with the planning intention of "AGR" zone; land still being available within the "V" zone and setting of undesirable precedent.
- 5.2 One public comment raising objection to the application was received at the s.16 application stage which is set out in paragraph 11 of **Annex A**.

## **6. Planning Considerations and Assessments**

- 6.1 The subject application for Small House development was rejected by the RNTPC on 16.8.2019 mainly on the grounds of being not in line with the planning intention of the "AGR" zone; and land was still available within the "V" zone of Yuen Leng, Kau Lung Hang and Tai Wo for Small House development. As the applicant has not submitted any written representation in support of the review application, there is no material change in the previous planning consideration and assessments set out in paragraph 12 of **Annex A**.
- 6.2 The Site falls entirely within an area zoned "AGR". The proposed Small House development is not in line with the planning intention of "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for

rehabilitation for cultivation and other agricultural purposes. As the Site is surrounded by domestic structures and the potential for agricultural rehabilitation is considered low, DAFC has no strong view on the application.

- 6.3 According to the DLO/TP, LandsD's records, the total number of outstanding Small House applications for Yuen Leng, Kau Lung Hang and Tai Wo Villages is 176 while the 10-year Small House demand forecast for the same villages is 494. Based on the latest estimate by PlanD, about 9.05 ha of land (or equivalent to about 360 Small House sites) is available within the "V" zones of the concerned villages (**Plan R-2b**). As the proposed Small House footprint falls entirely within the 'VE' of the concerned villages, DLO/TP, LandsD has no objection to the review application.
- 6.4 The Site, located at the southern fringe of Yuen Leng, is currently vacant and hard paved (**Plans R-2a** and **R-4**). The proposed development is not incompatible with the surrounding area which is predominantly rural in character with active/fallow agricultural land and village houses (**Plans R-2a** and **R-3**). CTP/UD&L of PlanD has no objection to the review application from the landscape planning perspective as there are no trees within the Site and adverse impact on landscape resources due to the proposed development is not anticipated.
- 6.5 The Site falls within the upper indirect WGG. The applicant proposes to connect the proposed Small House to the existing public sewer at a considerable distance of about 150m to the west of the Site (**Plan R-2a**). Both DEP and CE/C of WSD have no objection to the review application provided that the applicant shall connect the proposed Small House to the public sewer at their own cost, and adequate space within the Site will be reserved for connection. Other Government departments consulted including C for T, CE/MN and CE/CM of DSD, D of FS, CHE/NTE of HyD and H(GEO) of CEDD have no objection to/ no adverse comment on the review application.
- 6.6 Regarding the Interim Criteria, more than 50% of the proposed Small House footprint falls within the 'VE' of Tai Wo and the proposed development located within WGG would be able to be connected to public sewerage system (**Plan R-2a**). While land available within the "V" zones (about 9.05 ha or equivalent to about 360 Small House sites) is insufficient to fully meet future Small House demand of 670 Small Houses, such available land is capable to meet the outstanding 176 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.
- 6.7 The applicant claims that land available within the "V" zone of Yuen Leng as estimated by PlanD under the previous application No. A/NE-KLH/543 could only accommodate 50 Small Houses as most of the available land are owned by Tso Tong or used as access roads or private gardens, and hence it could not meet the 10-year Small House demand

of Yuen Leng Village<sup>1</sup>. It should be noted that PlanD, in estimating land available for Small House development in the “V” zone, has adopted a consistent approach and would make use of the latest available information. In general, land occupied by road, existing and approved NEH/houses, squatters, steep slope, major tree cluster and stream buffer will be deducted from the area available for Small House development. Land ownership is not a material consideration as it could be subject to change and land parcel could be subdivided to suit development needs. For land currently being occupied by private gardens of local villagers or other temporary uses, they will be included as a source of land supply.

- 6.8 The Site is the subject of three previous applications (No. A/NE-KLH/275, 445 and 543). Application No. A/NE-KLH/275 submitted by a different applicant was approved in 2001 before criterion (i) of the Interim Criteria came into effect on 23.8.2002. For applications No. A/NE-KLH/445 and 543, they were submitted by the same applicant of the current application and were rejected by the Board on review on 22.2.2013 and 14.12.2018 respectively. While the former application was rejected mainly because the proposed development would not be able to be connected to the planned sewerage system, the latter application was rejected mainly because land was still available within the “V” zone. Compared with the last previous application (No. A/NE-KLH/543), there is no change to the footprint and development parameters of the proposed Small House under the current application. As there is no major change in planning circumstances since the rejection of Application No. A/NE-KLH/543, rejecting the current application is in line with the Board’s previous decision.
- 6.9 As shown on **Plan R-2a**, there are 30 similar applications in close vicinity of the Site with 16 cases approved and 14 cases rejected. Of the approved cases, six of them (No. A/NE-KLH/271, 272, 273, 277, 279 and 281) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Another eight applications (No. A/NE-KLH/328, 341, 345, 346, 391, 392, 402 and 409) were approved between 2004 and 2010 before the planned sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010, mainly on the considerations that there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. The remaining two applications (No. A/NE-KLH/438 and 491) were approved in 2012 and 2015 respectively mainly on considerations that there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; the application sites were the subject of previous approvals (applications No. A/NE-KLH/345 and 346) submitted by the same applicants; and EPD and WSD had no objection to the applications provided that the construction of the Small House would not commence before the completion of the planned sewerage system and the proposed houses should be connected to future public sewers when available.
- 6.10 For the 14 rejected applications (No. A/NE-KLH/299, 303, 321, 360, 362, 374, 380, 444, 455, 478, 479, 484, 526 and 548), they were rejected between 2003 and 2018 mainly on the grounds that the proposed developments located within WGG were not able to be connected to the planned sewerage system in the area either because the application sites were not covered by any planned public sewers or there was no fixed

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<sup>1</sup> The applicant claims that the 10-year Small House demand figure for Yuen Leng Village is 257 as provided by IIRs. According to DLO/TP, the figure is 261 as provided by the IIRs as at 11.5.2019 which is still valid at the time of departmental circulation of this review application.

programme for implementation of the planned sewerage system serving Yuen Leng Village. Applications No. A/NE-KLH/526 and 548 were also rejected after the Board's adoption of a more cautious approach in August 2015 as land was still available within the "V" zone for Small House development. The planning circumstances of the current application are similar to these two rejected applications (No. A/NE-KLH/526 and 548) in that land was still available within the "V" zone for Small House development.

- 6.11 Regarding the public comment objecting to the review application as mentioned in paragraph 5 above, Government departments' comments and the planning assessments above are relevant.

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

- 7.1 Based on the assessments made in paragraph 6, having taken into account the public comment mentioned in paragraph 7 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 "AGR" zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
  - (b) land is still available within the "V" zone of Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructure and services.
- 7.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid until 20.12.2023, 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

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

## **8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 8.2 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.
- 8.3 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.

## **9. Attachments**

<b>Drawing R-1</b>	Layout plan submitted by the applicant
<b>Plan R-1</b>	Location plan
<b>Plan R-2a</b>	Site plan
<b>Plan R-2b</b>	Estimated amount of land available for Small House development within "V" zone
<b>Plan R-3</b>	Aerial photo
<b>Plan R-4</b>	Site photo
<b>Annex A</b>	RNTPC Paper No. A/NE-KLH/570
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 16.8.2019
<b>Annex C</b>	Secretary of the Town Planning Board's letters dated 6.9.2019
<b>Annex D</b>	Letter received by the Town Planning Board on 25.9.2019 from the applicant applying for a review of the RNTPC's decision
<b>Annex E</b>	Public comment
<b>Annex F</b>	Recommended advisory clauses

**PLANNING DEPARTMENT  
DECEMBER 2019**