

REVIEW OF APPLICATION NO. A/NE-LT/637
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

Proposed House (New Territories Exempted House - Small House)
in “Agriculture” zone
Lot 1328 RP in D.D. 19, Lam Tsuen, Tai Po, New Territories

1. Background

- 1.1 On 18.4.2018, the applicant, Mr. WAN Siu Han, 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 Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11 (**Plan R-1**).
- 1.2 On 15.6.2018, 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 “Agriculture” 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;
 - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that it would cause adverse landscape impact on the surrounding areas and there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Chuen Shui Tseng; and
 - (c) land is still available within the “V” zone of Chuen Shui Tseng 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-LT/637 (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 15.6.2018 (Annex B)
 - (c) Secretary of the Board’s letter dated 6.7.2018 (Annex C)

2. Application for Review

On 16.7.2018, the applicant applied under section 17(1) of the Ordinance for review of the RNTPC's decision to reject the application (**Annex D1**). In support of the review, the applicant submitted the following documents:

- (a) further information received on 19.9.2018 providing first written submission in support of the review and a revised layout of Small House development; and (**Annex D2**)
- (b) further information received on 15.10.2018 providing written representation and a new landscape proposal; and (**Annex D3**)
- (c) further information received on 23.10.2018 providing justification letter with supporting letters from a Tai Po District Councillor and the Tai Po Rural Committee. (**Annex D4**)

3. Justifications from the Applicant

The justifications/responses put forth by the applicant in support of the review application are detailed in the letters at **Annexes D2 to D4**. They can be summarized as follows:

Preservation of existing trees

- (a) in response to the departmental concerns on landscape impact, the proposed Small House footprint has been revised to preserve four existing trees and two more trees will be planted to improve the landscape character of the surrounding area as shown in the revised proposal (**Drawing R-1** and **Plan R-2a**);

Eligibility of indigenous villagers

- (b) the Site falls entirely within the village 'environs' ('VE') of Chuen Shui Tseng. The applicant is the indigenous villager of Lung A Pai and the Site is the only piece of land owned by the applicant for Small House development. The application is also supported by the Tai Po Rural Committee and a Tai Po District Councillor;

No active agricultural activities at the Site

- (c) the Site is currently vacant and mainly occupied by weeds and shrubs with no active agricultural activities. Limited active agricultural activities are found in the vicinity of the Site. Besides, the Site being left vacant and grown with weeds may cause adverse hygiene and environmental impacts;

General shortage of land within the "V" zone for Small House development

- (d) despite there are land available within the "V" zone of Chuen Shui Tseng for Small House development, they are owned by other individuals. Hence, there is limited land for the applicant to apply for Small House development;
- (e) based on the estimation by the Planning Department, there is sufficient land within the "V" zone for Small House development. However, slopes, land held by overseas

owners, land held under “Tso Tong”, leased Government land and other scattered land which are relatively small in size and irregular in shape or occupied by private garden should not be regarded as land available for Small House development (**Drawing R-2**). Furthermore, the Indigenous Inhabitant Representative (IIR) of Lung A Pai (who is also the acting IIR of Chuen Shui Tseng) has provided the updated 10-year Small House demand for Chuen Shui Tseng and Pak Tin Kong. Therefore, land available within the “V” zone is insufficient to meet the demand for Small House development;

No adverse impact arising from the proposed development

- (f) similar approved applications of Small House development are found within 20m from the Site. Approval of the application would not set an undesirable precedent for other similar applications; and
- (g) the Drainage Services Department and Environmental Protection Department have no adverse comment on the proposed sewerage connection. The Site is accessible via an existing footpath and no adverse traffic impact is anticipated. Other relevant Government departments also have no objection to the application.

4. The Section 16 Application

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

- 4.1 The situation of the Site and the surrounding areas at the time of consideration of the s.16 application by the RNTPC were described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no material change of the situation since then.
- 4.2 The Site is:
 - (a) generally flat and vacant and partly fenced-off, partly covered with grasses and partly hard-paved;
 - (b) situated to the southwestern fringe of Chuen Shui Tseng and located to the immediate northwest of a row of trees; and
 - (c) abutted a village access leading to Lam Kam Road.
- 4.3 The surrounding areas are predominantly rural in character with a mix of village houses, fallow agricultural land and scattered tree groups. A row of trees are found within and adjoining the southern boundary of the Site. A cluster of village houses are found to the north of the Site and the village cluster of Chuen Shui Tseng is situated about 60m to the east of the Site.

Planning Intention

- 4.4 The planning intention of the “AGR” zone 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.

Assessment Criteria

- 4.5 The set of 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 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**.

Previous Application

- 4.6 There is no previous application at the Site.

Similar Applications

- 4.7 When the s.16 application was considered by the RNTPC on 15.6.2018, there were 13 similar applications (**Plan R-1**) for Small House development since the first promulgation of the Interim Criteria on 24.11.2000. Since then, there is one additional application (No. A/NE-LT/651).
- 4.8 Of the five approved cases, three applications (No. A/NE-LT/253, 254 and 264) were approved with conditions by the RNTPC in 2001 before the introduction of criterion (i) of the Interim Criteria requiring connection to the existing or planned sewerage system on 23.8.2002. For Application No. A/NE-LT/430, it was approved in 2011 mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was within 'VE'/'V' zone; being able to be connected to the public sewerage system; and there was a general shortage of land within the concerned "V" zone to meet the future Small House demand at the time of consideration. Although the other application (No. A/NE-LT/622), which was approved in 2017, did not fully comply with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the concerned "V" zone at the time of consideration, sympathetic consideration was given to the application as the application site was situated to the immediate northwest of the village cluster of Chuen Shui Tseng and about 84% of the proposed Small House footprint fell within the "V" zone.
- 4.9 The other nine applications (No. A/NE-LT/309, 315, 512, 546, 572, 573, 625, 626 and 651) were rejected by the Committee/the Board on review between 2003 and 2018. Applications No. A/NE-LT/309, 315, 512, 546, 572 and 573 were rejected mainly because the proposed development located within WGG were not able to be connected to the existing/planned sewerage system in the area; and three of them (Applications No. A/NE-LT/315, 512 and 546) as well as Application No. A/NE-LT/651 were also rejected as more than 50% of the proposed Small House footprint fell outside the 'VE'/'V' zone. After the Board's adoption of a more cautious approach in approving planning applications for Small House development in August 2015, Applications No. A/NE-LT/546, 572, 573 and 625 were rejected mainly for the reason of not complying with the Interim Criteria in that there was no general shortage of land in the "V" zone of the concerned village(s) in meeting the demand for Small House development; whereas Applications No. A/NE-LT/626 and 651 were rejected mainly because land was still available within the "V" zone for Small House development.

- 4.10 Details of the above similar applications are summarized at **Annex E** 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 9 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 The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has the following comments on the review application:

- (a) no objection to the application;
- (b) the applicant claimed to be an indigenous villager (IV) of Lung A Pai, Tai Po. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the latest number of outstanding Small House applications for Chuen Shui Tseng is 11 (the figure was 13 at the s.16 application stage), whilst the number of 10-year Small House demand for Chuen Shui Tseng and Pak Tin Kong provided by the IIR of Lung A Pai (who is also the acting IIR of Chuen Shui Tseng) on 20.9.2018 is 65. Pak Tin Kong is not a recognised village and the information so obtained is not verified by LandsD;
- (d) the Site is an old schedule lot held under Block Government Lease (demised for agricultural use). The applicant is the registered owner of the subject lot;
- (e) the Site falls entirely within the 'VE' of Chuen Shui Tseng and is not covered by any Modification of Tenancy or Building Licence;
- (f) if and after planning approval has been granted 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
- (g) the proposed sewerage connection will be considered when the application is due for processing. Taking into consideration that the Site falls within the WGG, the applicant may be advised to connect the

sewerage system to the existing government sewer under - Lam Tsuen Valley Sewerage.

Traffic

5.2.2 The Commissioner for Transport (C for T) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 2 of the Appendix IV in **Annex A** and recapitulated below:

- (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 the “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;
- (b) notwithstanding the above, he considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds; and
- (c) the existing village access on and near the Site is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Environment

5.2.3 The Director of Environmental Protection (DEP) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 3 of the Appendix IV in **Annex A** and recapitulated below:

- the Site falls within “AGR” zone and is within WGG. The applicant has proposed to connect the proposed Small House to the existing public sewerage at Chuen Shui Tseng Village. The proposed sewer manhole is at about 34m away from the Site. Provided that the applicant can obtain consent from the adjacent lot owners for laying and maintenance sewer pipes, sewer connection is feasible and capacity is available. Therefore, he has no objection to the application on the conditions that:
 - (i) the proposed Small House will be connected to the public sewer for sewage disposal;
 - (ii) written consent(s) can be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes across the adjacent lot(s);
 - (iii) adequate land space within the Site will be reserved for connection of the proposed Small House to the public sewer; and

- (iv) the cost of sewer connection will be borne by the applicant.

Landscape

5.2.4 The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has the following comments on the review application:

- (a) has some reservations on the application from the landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmland and village houses. Existing village houses are found scattered in the “AGR” zone to the north and within the “V” zone to the further east and north. Although the proposed development is not in line with the planning intention of the “AGR” zone, it is not incompatible with the surrounding environment;
- (c) noting that the Small House is proposed to be shifted northward to keep the Small House away from the four existing trees along and adjoining the southern boundary and the applicant is intended to keep the four existing trees untouched, adverse impact on landscape resources is not anticipated;
- (d) however, comparing the past aerial photos, it is apparent that vegetation has been cleared within the Site since 2016 (**Plan R-3a**) prior to submission of the application. Approval of this application would set an undesirable precedent to encourage such unauthorized removal of vegetation, and similar developments encroaching onto the “AGR” zone. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area;
- (e) should the application be approved by the Board, approval condition on submission and implementation of tree preservation and landscape proposal is recommended;
- (f) the applicant is advised to keep a minimum of 3m clearance between the proposed Small House and the adjacent trees along the southern boundary to facilitate healthy growth of trees; and.
- (g) the applicant is reminded to adopt tree preservation measures to minimize adverse impact to the adjacent trees during the construction works. Reference should be made to *Tree Care during Construction* (工程期間的樹木管理) promulgated by the Development Bureau.

Drainage and Sewerage

5.2.5 The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 5 of the Appendix IV in **Annex A** and recapitulated below:

- (a) no in-principle objection to the application from public drainage point of view;
- (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 public drain maintained by DSD in the vicinity of the Site. The proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding of the Site. The proposed development is located on unpaved ground and will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such system properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicant should design the drainage proposal based on actual site condition for DSD's comment/agreement. DSD would not assist on the drainage proposal. 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. The applicant 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;
- (e) the Site is within an area where connections to existing sewerage networks are available in the vicinity. Should the applicant choose to connect his proposed drainage systems to DSD's networks, his connection proposal should be submitted for DSD's agreement; and
- (f) the applicant is required to rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

5.2.6 The Chief Engineer/Project Management (CE/PM), DSD has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 5 of the Appendix IV in **Annex A** and recapitulated below:

- no comment on the application as there is no drainage or sewerage project under DSD's control in Chuen Shui Tseng.

Agriculture

5.2.7 The Director of Agriculture, Fisheries & Conservation (DAFC) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 6 of the Appendix IV in **Annex A** and recapitulated below:

- the Site is largely vacant. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as road access is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural development point of view.

Fire Safety

5.2.8 The Director of Fire Services (D of FS) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 7 of the Appendix IV in **Annex A** and recapitulated below:

- (a) no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

Water Supply

5.2.9 The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 8 of the Appendix IV in **Annex A** and recapitulated below:

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG and is more than 30m away from the nearest stream. The proposed Small House footprint is within the 'VE' of Chuen Shui Tseng. DEP advised that the Site is able to be connected to the public sewerage system in the area. Thus, compliance of the application with Item B(a) of the "Interim Criteria for Consideration of Applications for New Territories Exempted House/Small House in New Territories" can be reasonably established;
- (c) DEP advised that the Site is able to be connected to the public sewerage system in the area and required the applicant shall connect the proposed Small House with 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) an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass shall be submitted 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 provision of water supply to the 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.

Electricity Supply and Safety

5.2.10 The Director of Electrical and Mechanical Services (DEMS) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 9 of the Appendix IV in **Annex A** and recapitulated below:

- (a) no comment on the application from electricity supply and safety aspect; and
- (b) in the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the 'Code of Practice on Working near Electricity Supply Lines' established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

5.3 The following Government departments have been further consulted and 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; and
- (d) District Officer/Tai Po, Home Affairs Department.

6. **Public Comments on the Review Application Received During Statutory Publication Period (Annex F)**

On 16.7.2018 and 19.9.2018, the review application and further information were published for public inspection. During the statutory public inspection periods, three public comments were received. One of them was from Designing Hong Kong objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; not complying with the Interim Criteria; land being still available within the “V” zone of concerned village for Small House development; and setting of undesirable precedent. Two comments were from Tai Po Rural Committee and a Tai Po District Councillor supporting the application mainly on the grounds of the traditional right of indigenous villager, an urgent housing need for settlement with family of the applicants, general shortage of land within the “V” zone for Small House development and no adverse impact arising from the proposed development.

7. **Planning Considerations and Assessments**

- 7.1 The subject application for Small House development was rejected by the RNTPC on 15.6.2018 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; not complying with the Interim Criteria in that it would cause adverse landscape impact on the surrounding areas and there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Chuen Shui Tseng; and land was still available within the “V” zone of Chuen Shui Tseng for Small House development.
- 7.2 To support the review application, the applicant has revised the proposed Small House footprint to preserve four existing trees and proposed the planting of two more trees to improve the landscape character of the surrounding area in the revised proposal (**Drawing R-1** and **Plan R-2a**). The applicant has also put forward justifications that the applicant is an indigenous villager and his application is supported by Tai Po Rural Committee and a Tai Po District Councillor ; no active agricultural activities are found at the Site; there is general shortage of land within the “V” zone for the applicant to apply for Small House development as they are owned by other individuals; PlanD’s estimation of land available within the “V” zone has included slopes, land held by overseas owners or “Tso Tong”, leased Government land and other scattered land parcels which are small in size and irregular in shape or occupied by private garden and such land is insufficient to meet the 10-year Small House demand for Chuen Shui Tseng and Pak Tin Kong; and there is no adverse impacts on the surrounding area arising from the proposed development.
- 7.3 The Site falls entirely within an area zoned “AGR” (**Plan R-2a**). 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 current submission for a departure from the planning intention. DAFC maintains his previous view of not supporting the application from the agricultural development point of view and advises that the Site possesses potential for agricultural rehabilitation as there are agricultural infrastructure such as road access available in the vicinity. It is also noted that there

are active agricultural activities within the “AGR” zone in the vicinity of the Site (**Plan R-3b**).

- 7.4 In the review application, the applicant argues that the available land for Small House development in Chuen Shui Tseng has been overestimated as they are generally under private ownership or leased Government land, being occupied by slopes or private gardens, and scattered land parcels which are relatively small in size and irregular in shape (**Drawing R-2**). It should be noted that in estimating the land available for Small House development in the “V” zone, PlanD has adopted a consistent approach and would make use of the latest available information. In general, land occupied by road, existing and approved village houses, steep slope, major tree clusters 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. Furthermore, DLO/TP of LandsD advised that the IIR of Lung A Pai (who is also the acting IIR of Chuen Shui Tseng) has recently provided the latest 10-year Small House demand of 65 for Chuen Shui Tseng and Pak Tin Kong¹. Based on the latest estimate by the Planning Department, about 0.84 ha of land (or equivalent to about 33 Small House sites) is available within the “V” zone concerned (**Plan R-2b**). Therefore, the land available cannot fully meet the future demand of 76 Small Houses (i.e. 11 outstanding Small House applications² plus 65 Small Houses under the latest 10-year Small House forecast demand). Nonetheless, 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.
- 7.5 The Site is currently vacant and partly covered with grasses and partly hard-paved (**Plans R-2a and R-4**). The village cluster of Chuen Shui Tseng is situated about 60m to the east of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of village houses, agricultural land and tree groups (**Plan R-3b**). In the review application, the applicant has proposed to shift the Small House footprint northward for preservation of four existing trees along and adjoining the southern boundary and to plant two more trees to the south of the proposed Small House (**Drawings R-1 and Plan R-2a**). Although CTP/UD&L of PlanD advises that adverse impact on landscape resources is not anticipated with the applicant’s revised proposal, he maintains his previous view of having some reservations on the application from landscape planning point of view as there has been clearance of vegetation within the Site (**Plans R-3a and R-3b**), approval of the application will set an undesirable precedent to encourage such

¹ While DLO/TP of LandsD advises that Pak Tin Kong is not a recognized village, the acting IIR of Chuen Shui Tseng informed LandsD that the 10-year Small House demand forecast for Chuen Shui Tseng and Pak Tin Kong is 65 without providing a breakdown of the forecast between the two villages.

² Among the 11 outstanding Small House applications, five of them fall within the “V” zone and six straddle or outside the “V” zone. For those six applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

unauthorized removal of vegetation and the cumulative effect would lead to degradation of landscape character and cause adverse landscape impact to the area. Besides, C for T has general reservation on the application but considers the application only involving the development of a Small House can be tolerated. Other relevant Government departments including DEP, CE/MN and CE/PM of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application.

- 7.6 The applicant has also argued that similar approved applications for Small House development are found within 20m from the Site. As shown on **Plan R-2a**, there are 11 similar applications (No. A/NE-LT/253, 254, 264, 309, 430, 546, 572, 573, 622, 625 and 626) in close vicinity of the Site with five cases approved and six cases rejected. Applications No. A/NE-LT/253, 254, 264 and 430 were approved between 2001 and 2011 before the Board's adoption of a more cautious approach, mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was within 'VE'/'V' zone; there was a general shortage of land within the concerned "V" zone to meet the future Small House demand at the time of consideration; and being able to be connected to the public sewerage system. For Application No. A/NE-LT/622, it was approved in 2017 on sympathetic consideration as the application site was situated to the immediate northwest of the village cluster of Chuen Shui Tseng and about 84% of the proposed Small House footprint fell within the "V" zone. For the six rejected cases, they were rejected between 2003 and 2018 for a number of reasons. Application No. A/NE-LT/309 was rejected mainly because the proposed development located within WGG was not able to be connected to existing/ planned sewerage system. Application No. A/NE-LT/546 was rejected mainly on the ground that more than 50% of the proposed Small House footprint fell outside the 'VE'/'V' zone of the concerned village. Applications No. A/NE-LT/572, 573 and 625 were rejected mainly because there was no general shortage of land in the "V" zone of the concerned village(s) in meeting the demand for Small House development; and Applications No. A/NE-LT/572 and 573 were also rejected as the proposed development was not able to be connected to existing/ planned sewerage system in the area. For Application No. A/NE-LT/626, it was rejected by the Board on review in November 2018 mainly because land was still available within the "V" zone for Small House development. The planning circumstances of the current application are similar to the rejected application (No. A/NE-LT/626).
- 7.7 Regarding the public comments received, the planning assessments above and departmental comments in paragraph 5 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 major 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 Chuen Shui Tseng 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.

8.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **14.12.2022**, 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 tree preservation and landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) 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
- (d) 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 the Town Planning Board.

Advisory Clauses

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

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 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.
- 9.3 Alternatively, 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.

10. Attachments

Drawings R-1 and R-2	Drawings 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 development within “V” zone
Plans R-3a and R-3b	Aerial photos
Plan R-4	Site photo
Annex A	RNTPC Paper No. A/NE-LT/637
Annex B	Extract of minutes of the RNTPC meeting held on 15.6.2018
Annex C	Secretary of Town Planning Board’s letter dated 6.7.2018
Annex D1	Letter dated 16.7.2018 from the applicant applying for a review of the RNTPC’s decision
Annex D2	Further information received on 19.9.2018
Annex D3	Further information received on 15.10.2018
Annex D4	Further information received on 23.10.2018
Annex E	Similar applications
Annex F	Public comments
Annex G	Recommended Advisory Clauses

**PLANNING DEPARTMENT
DECEMBER 2018**

TPB Paper No. 10502

**For Consideration by
the Town Planning Board on 14.12.2018**

**REVIEW OF APPLICATION NO. A/NE-LT/637
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House – Small House)
in “Agriculture” zone**

Lot 1328 RP in D.D. 19, Lam Tsuen, Tai Po, New Territories