

**TPB Paper No. 10513**

**For Consideration by  
the Town Planning Board on 25.1.2019**

**REVIEW OF APPLICATION NO. A/NE-LT/647  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

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

**Lots 913 S.B ss.1 and 913 S.B RP in D.D. 8, Ma Po Mei, Tai Po, New Territories**



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**1. Background**

- 1.1 On 30.7.2018, the applicants, Messrs. LEUNG Tsz Ho and LEUNG Tsz Lun represented by Mr. TAI Ngan Chiu, sought planning permission to build two houses (New Territories Exempted Houses (NTEH) - Small Houses) 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 21.9.2018, 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 developments are 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 developments do not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that you fail to demonstrate that the proposed developments located within water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
  - (c) land is still available within the “Village Type Development” (“V”) zone of Ma Po Mei and Tai Mong Che which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small Houses 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/647 (Annex A)
  - (b) Extract of minutes of the RNTPC meeting held on 21.9.2018 (Annex B)
  - (c) Secretary of the Board’s letter dated 5.10.2018 (Annex C)

## 2. **Application for Review**

On 24.10.2018, the applicants applied under section 17(1) of the Ordinance for review of the RNTPC's decision to reject the application with justifications to support the review (**Annex D**).

## 3. **Justifications from the Applicants**

The justifications/responses put forth by the applicants in support of the review application are detailed in the letter at **Annex D**. They can be summarized as follows:

- (a) the Site has been abandoned for many years and would no longer be used for agricultural activities in future;
- (b) as the Site is not able to be connected to the public sewerage system in the area, septic tanks are proposed for the proposed Small Houses. Septic tank systems for Small House developments have been used for many years and hence would not cause any adverse impact to the river course and the environment;
- (c) the Site is the only piece of land owned by the applicants and they could not afford to buy other land within the "V" zone for Small House developments due to high land price; and
- (d) there are existing village houses and similar approved applications (No. A/NE-LT/582 and 583) in the vicinity of the Site.

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

### **The Site and its Surrounding Areas** (Plans R-1, R-2a and Photos on Plan 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 partly covered with weeds;
  - (b) situated to the immediate east of Lam Tsuen River (an Ecologically Important Stream (EIS)) and sandwiched between existing village houses and some temporary structures; and
  - (c) directly accessible from a footpath leading to Lam Kam Road.
- 4.3 The surrounding areas are predominantly rural in character with a mix of village houses, temporary structures, plant nurseries, agricultural land and tree groups. Lam Kam Road is situated about 40m to the east of the Site. The village clusters of Ma Po Mei and Ping Long are situated to the northwest and southeast of the Site on the other side of Lam Tsuen River and Lam Kam Road respectively.

### 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 The Site/part of the Site is the subject of several previous applications (No. A/NE-LT/105, 106, 204 and 368). As shown on **Plan R-2a**, House 1 at Lot 913 S.B ss.1 is the subject of two previous applications (No. A/NE-LT/105 and 204), whilst House 2 at Lot 913 S.B RP is the subject of three previous applications (No. A/NE-LT/106, 204 and 368).
- 4.7 Applications No. A/NE-LT/105 and 106, each for the development of a Small House, were rejected by the Board on review in 1998 (before the promulgation of the Interim Criteria) for the reasons of being not in line with the planning intention of the “AGR” zone; land being still available within the “V” zone of concerned villages for Small House development at the time of consideration; having adverse drainage impacts on the surrounding areas; and setting of undesirable precedent.
- 4.8 Subsequently, Application No. A/NE-LT/204 for the development of two Small Houses, which generally covered the same sites of Applications No. A/NE-LT/105 and 106, was approved by the Committee in 1999 (before the promulgation of the Interim Criteria) on the consideration that the Site fell within the village ‘environs’ (‘VE’) of Ma Po Mei; the proposed Small Houses were compatible with the surrounding area; the proposed developments would not have adverse drainage impact due to the completion of works on Lam Tsuen River Embankment; and there was a general shortage of land to meet the Small House demand in the “V” zone concerned at the time of consideration. Nonetheless, the planning permission lapsed on 14.8.2002.
- 4.9 Application No. A/NE-LT/368, covering the same site of House 2, for a Small House development submitted by one of the applicants under the current application, was rejected by the Committee in 2007 on the grounds of being not in line with the planning intention of the “AGR” zone; and not complying with the Interim Criteria in that the proposed development was not able to be connected to existing or planned sewerage system in the area.
- 4.10 Details of the applications are summarized at Appendix III of **Annex A** and their locations are shown on **Plans R-1** and **R-2a**.

### Similar Applications

- 4.11 When the s.16 application was considered by the RNTPC on 21.9.2018, there were 22 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 similar application (No. A/NE-LT/656).
- 4.12 Application No. A/NE-LT/268 was approved before the incorporation of criterion (i) on sewerage connection requirement into the Interim Criteria in August 2002. Another nine applications (No. A/NE-LT/274, 312, 387, 406, 432 to 434, 465 and 497) were approved with conditions by the Committee between 2001 and 2014 for reasons that the proposed developments were in compliance with the Interim Criteria in that more than 50% of the footprint of the proposed Small Houses fell within the 'VE'; there was a general shortage of land to meet the Small House demand in the "V" zone of the concerned villages at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system.
- 4.13 After the Board's adoption of a more cautious approach in August 2015, three applications (No. A/NE-LT/582, 583 and 584) were approved with conditions by the Committee in 2016 mainly on sympathetic consideration as the sites were the subject of previously approved applications (No. A/NE-LT/432, 433 and 434). Another application (No. A/NE-LT/542) for the development of an NTEH was approved with conditions by the Committee in 2015 mainly on the grounds of having building entitlement.
- 4.14 There were eight applications (No. A/NE-LT/291, 294, 298, 360, 411, 412, 422 and 474) rejected by the Committee/the Board upon review between 2003 and 2014 mainly for the reasons of being not able to be connected to the existing or planned sewerage system in the area and the applicants failed to demonstrate that the proposed development within the WGG would not cause adverse impact on the water quality in the area. Amongst others, Application No. A/NE-LT/474 was also rejected on the ground of causing adverse impact on landscape resources in the surrounding areas. For the additional application (No. A/NE-LT/656), although it was able to be connected to the existing public sewerage system, it was rejected in 2018 mainly for the reasons of having adverse geotechnical impact on the surrounding area and land being still available within the "V" zone for Small House development.
- 4.15 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 V 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) advises that the latest number of outstanding Small House applications for Ma Po Mei and Tai Mong Che are 14 and 26 respectively (the figures are 14 and 28 at the s.16 application stage) whilst the 10-year Small House demand remains unchanged at 270. He maintains his other previous views on the s.16 application as stated in paragraph 1 of the Appendix V in **Annex A**, and recapitulated below:

- (a) no objection to the application;
- (b) the applicants claimed to be indigenous villagers (IV) of Ma Po Mei, Tai Po. However, their eligibility of Small House grants have yet to be ascertained;
- (c) the Site is old schedule lots held under Block Government Lease (demised for agricultural use). The applicants are the registered owners of the subject lots. The Small House applications have been received by LandsD;
- (d) the Site falls entirely within the 'VE' of Ma Po Mei and are within the WGG of Tai Po Heung. The Site is not covered by any Modification of Tenancy or Building Licence;
- (e) if and after planning approval has been granted by the Board, LandsD will process the Small House applications. However, there is no guarantee at this stage that the Small House applications would be approved. If the Small House applications are 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 Houses concerned or approval of the emergency vehicular access thereto; and
- (f) with respect to the proposed septic tanks, they will be considered when the cases are due for processing.

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 V 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; and

- (b) notwithstanding the above, he considers that the application only involves development of two Small Houses can be tolerated on traffic grounds.

### Environment

5.2.3 The Director of Environmental Protection (DEP) has the following comments on the review application:

- (a) does not support the review application;
- (b) one of the reasons for rejecting the application by the Board was the failure to comply with the Interim Criteria in that the applicants failed to demonstrate that the proposed developments located within WGG would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
- (c) it is noted that the applicants proposed the same sewage treatment method as the s.16 application stage (i.e. adoption of septic tank and soakaway system (STS)). Without any change of environmental circumstance, he maintains his previous views on the s.16 application as stated in paragraph 3 of the Appendix V in **Annex A** and recapitulated below:
  - (i) the Site is entirely within “AGR” zone and within WGG. There is existing public sewer at Ma Po Mei for connection, yet the ground level of the Site (+52.1mPD) is lower than the outgoing pipe invert level of the nearest manhole (+52.41mPD). The connection of public sewer is considered technically infeasible unless the applicants can overcome the level difference; and
  - (ii) based on the applicants’ further information, they proposed the adoption of septic tanks and soakaway system to treat wastewater. He does not support the application as using a septic tank and soakaway system to treat wastewater is unacceptable inside the WGG according to Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG).

### Landscape

5.2.4 The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 4 of the Appendix V in **Annex A** and recapitulated below:

- (a) no objection to the application from the landscape planning perspective;

- (b) the Site is connected to Lam Kam Road via paved footpaths at the eastern and western corner of the Site. Village houses are concentrated within the “V” zone to the further south and west of the Site;
- (c) the Site is situated in an area of rural landscape character comprising of scattered tree groups, active and abandoned farmland, temporary structures and village houses. Although the proposed development is not in line with the planning intention of the “AGR” zone, it is not entirely incompatible with the surrounding environment;
- (d) the Site is vacant and covered with grass. No existing tree is found within the Site. Adverse impact to significant landscape resources is not anticipated;
- (e) should the application be approved by the Board, approval condition on submission and implementation of landscape proposal is recommended; and
- (f) it appears that the western boundary of the Site may have conflict with an existing track leading to a potential impact on the right-of-way. The applicants should consult relevant Government departments.

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 5.1 of the Appendix V 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 Houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. The proposed developments are 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 applicants should take this into account when preparing the drainage proposal. The applicants/owners are also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants/owners 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 applicants 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 applicants should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicants 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. However, connection to existing sewerage networks might not be feasible; and
- (f) the applicants are required to rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicants 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 5.2 of the Appendix V in **Annex A** and recapitulated below:

- no comment on the application from project interface point of view as there is no active project/contract in Ma Po Mei, Lam Tsuen.

#### 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 V in **Annex A** and recapitulated below:

- the Site is vacant. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water source 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 V in **Annex A** and recapitulated below:

- (a) no in-principle objection to the application; and
- (b) the applicants are 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 V in **Annex A** and recapitulated below:

- (a) objects to the application; and
- (b) the Site is located within upper indirect WGG and the proposed Small Houses are situated less than 30m from the nearest stream course. The Site is located in the “AGR” zone on the OZP. As advised by DEP, the connection from the proposed Small Houses to the public sewerage system in the area is considered technically infeasible. It is thus considered that compliance with the Interim Criteria cannot be established.

Town Gas 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) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;
- (b) the applicants/consultant/works contractor shall therefore liaise with the Hong Kong and China Gas Company Limited in respect of the exact locations of existing or planned gas pipes/gas installations in the vicinity of the Site and any required minimum setback distance away from them during the design and construction stages of development; and
- (c) the applicants/consultant/works contractor is required to observe the requirements of the Electrical and Mechanical Services Department’s “Code of Practice on Avoiding Danger from Gas Pipes”.

District Officer’s Comments

5.2.11 The District Officer/Tai Po, Home Affairs Department (DO/TP, HAD) has no further comment on the review application and maintains his previous views on the s.16 application as stated in paragraph 10 of the Appendix V in **Annex A** and recapitulated below:

- (a) no comment on the application; and
- (b) a small portion of Lot 913 ss.1 affects a section of existing footpath built by locals. The applicants/lot owners concerned is advised to maintain the accessibility of the footpath or provision of an alternative section of the footpath on the premises during and after the Small House construction.

- 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; and
  - (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

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

- 6.1 On 2.11.2018, the review application was published for public inspection. During the first three weeks of the statutory public inspection periods, four public comments were received. Three of them were from Lam Tsuen Valley Committee, Indigenous Inhabitants Representative (IIR) of Ma Po Mei Village and a Tai Po District Council Member (i.e. Mr. CHAN Cho-leung) supporting the application mainly on the grounds that the Site has left vacant for many years; the Site is the only piece of land owned by the applicants for application; the proposed developments are compatible with the surrounding area; the proposed septic tanks have sufficient distance away from the nearby stream course and no pollution to the stream course is anticipated; and there are similar applications in the vicinity of the Site approved by the Committee in the past two years.
- 6.2 The remaining public comment from an individual objects to the application mainly for the reasons that the proposed developments within the WGG are not able to be connected to the existing public sewer; and land is still available within the “V” zone for Small House development.

**7. Planning Considerations and Assessments**

- 7.1 The subject application for two Small Houses was rejected by the RNTPC on 21.9.2018 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 the applicants failed to demonstrate that the proposed developments located within WGG would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and land was still available within the “V” zone of Ma Po Mei and Tai Mong Che for Small House development.
- 7.2 To support the review application, the applicant have put forward the justifications that the Site has been abandoned for many years and would no longer be used for agricultural activities in future; the proposed septic tanks would not have adverse impact to the river course and the environment; the Site is the only piece of land owned by the applicants; and there are existing village houses and similar approved applications in the vicinity of the Site.
- 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 there are active agricultural activities in the vicinity (**Plan R-3**) and the Site with agricultural infrastructure (such as road access) available in the vicinity possesses potential for agricultural rehabilitation.

- 7.4 In the review application, the applicants explain that they have to use the septic tanks system as the Site is not being able to be connected to the existing public sewerage system. They also claim that the proposed septic tanks would not create any adverse impact on the surrounding environment including the river course as such systems have been used for many years. Nevertheless, DEP reiterated that, according to HKPSG, the proposed use of a septic tank and soakaway system to treat wastewater is unacceptable inside WGG and also advises that the connection to public sewer is considered technically infeasible unless the applicants can overcome the level difference issue (**Plan R-2b**). Both DEP and CE/C of WSD maintain their views of not supporting the application as the proposed Small House development does not comply with the Interim Criteria in that the applicants fail to demonstrate that the proposed development located within WGG would be able to be connected to the existing/planned sewerage system and would not cause adverse impact on the water quality in the area.
- 7.5 The applicants argue that they could not afford to acquire land within the “V” zone for Small House development and the subject site is the only piece of land owned by them. Nevertheless, it should be noted that land ownership is not a material consideration as it could be subject to change. Based on the latest estimate by the Planning Department, about 2.14 ha (equivalent to about 85 Small House sites) of land are available within the “V” zone of the concerned villages (**Plan R-2b**). Although land available within “V” zone cannot fully meet the future demand of 310 Small Houses (equivalent to about 7.75 ha of land), it is capable to meet the 40 outstanding Small House applications. 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. Besides, as there is no significant change in planning circumstances since the application was rejected by the RNTPC, there is no strong reason to depart from the RNTPC’s previous decision.
- 7.6 The Site is generally flat, partly covered with weeds (**Plans R-2a** and **R-4**). The village cluster of Ma Po Mei is situated to the west of the Site across Lam Tsuen River. The proposed developments are 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-3**). CTP/UD&L of PlanD advises that there is no existing tree within the Site and maintains his previous view of having no objection to the application as adverse impact to significant landscape resources is not anticipated. Besides, C for T has general reservation on the application but considers the application only involving the development of two Small Houses can be tolerated. Other relevant Government departments including 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.

- 7.7 The applicants have also argued that similar approved applications for Small House development and existing village houses are found in the vicinity of the Site. As shown on **Plan R-2a**, there are nine similar applications covering four sites in close proximity of the Site since the first promulgation of the Interim Criteria in 2000. Apart from Applications No. A/NE-LT/294 and 298 being rejected by the Board upon review in 2003 mainly for the reason of being not able to be connected to public sewer as there was no plan to extend the public sewerage system in the area concerned at the time of consideration, all other cases (Applications No. A/NE-LT/432, 433, 434, 542, 582, 583 and 584) were generally complying with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the 'VE'; there was a general shortage of land to meet the Small House demand in the "V" zone of the concerned villages at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system. Furthermore, Applications No. A/NE-LT/582 to 584 were also approved by the Committee in 2016 on sympathetic consideration as the sites were the subject of previously approved applications (No. A/NE-LT/432 to 434). Regarding Application No. A/NE-LT/542 for the development of an NTEH, it was approved by the Committee in 2015 mainly on the grounds of having building entitlement. For the existing village houses in the vicinity of the Site, they were either in existence immediately before the first publication of Lam Tsuen Interim Development Permission Area (IDPA) Plan No. IDPA/NE-LT/1 on 31.8.1990 or approved by the Committee before the first promulgation of the Interim Criteria on 24.11.2000. The planning circumstances of the current application are different from those of the approved applications in that the proposed development cannot be connected to the existing public sewerage system.
- 7.8 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 developments are 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 developments do not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the applicants fail to demonstrate that the proposed developments located within water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and

- (c) land is still available within the “Village Type Development” (“V”) zone of Ma Po Mei and Tai Mong Che which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small Houses 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 **25.1.2023**, 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 a 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 applicants.

**10. Attachments**

<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 photos
<b>Annex A</b>	RNTPC Paper No. A/NE-LT/647
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 21.9.2018
<b>Annex C</b>	Secretary of the Town Planning Board's letters dated 5.10.2018
<b>Annex D</b>	Letter dated 24.10.2018 from the applicant applying for a review of the RNTPC's decision
<b>Annex E</b>	Similar applications
<b>Annex F</b>	Public comments
<b>Annex G</b>	Recommended advisory clause

**PLANNING DEPARTMENT**  
**JANUARY 2019**