

TPB Paper No. 10527

**For Consideration by
the Town Planning Board on 29.3.2019**

**REVIEW OF APPLICATION NO. A/NE-LT/654
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

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

Lot 257 S.B in D.D. 8, Tai Mong Che, Lam Tsuen, Tai Po, N.T.

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Lot 257 S.B in D.D. 8, Tai Mong Che, Lam Tsuen, Tai Po, N.T.**

1. Background

- 1.1 On 11.9.2018, the applicant, Mr. William WONG represented by Mr. WONG Chee Keung, 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 2.11.2018, 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 developments do not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area; and
 - (c) land is still available within the “Village Type Development” (“V”) zone of Tai Mong Che and Ma Po Mei 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/654 (Annex A)
 - (b) Extract of minutes of the RNTPC meeting held on 2.11.2018 (Annex B)
 - (c) Secretary of the Board’s letter dated 16.11.2018 (Annex C)

2. **Application for Review**

On 29.11.2018, 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 16.1.2019 providing first written submission in support of the review; and (**Annex D2**)
- (b) further information received on 23.1.2019 providing a Geotechnical Planning Review Report (GPRR). (**Annex D3**)

3. **Justifications from the Applicant**

The justifications/responses put forth by the applicant in support of the review application are detailed in the submission at **Annexes D2** and **D3**. They can be summarized as follows:

- (a) the application is well supported by a Tai Po District Councillor, Tai Po Rural Committee (TPRC) and Indigenous Inhabitant Representative (IIR) of Tai Mong Che; and
- (b) the Site has been abandoned for a few decades and no longer be used for agricultural activities;
- (c) there is no other land within the "V" zone owned by the applicant and all local villagers agreed that the applicant could build his own house on his land for settlement; and
- (d) the applicant has submitted a GPRR to demonstrate that the proposed development is feasible from geotechnical point of view, and committed to undertake a Natural Terrain Hazard Study (NTHS) to further study the natural terrain hazards posing to the proposed development.

4. **The Section 16 Application**

The Site and its Surrounding Areas (**Plans R-1, R-2a** and Photos on **Plans R-3** 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) located near a natural slope to the west and at the western fringe of Tai Mong Che Village;
 - (b) currently vacant and overgrown with grasses; and
 - (c) not connected to any proper vehicular and pedestrian access.

- 4.3 The surrounding areas are predominantly rural in character with village houses, agricultural fields and dense woodland. Village houses are mainly located within the “V” zone on the east of the Site. Dense woodland is found on the west 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 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**.

Previous Application

- 4.6 There is no previous planning application at the Site.

Similar Applications

- 4.7 When the s.16 application was considered by the RNTPC on 2.11.2018, there were 23 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 no additional similar application.
- 4.8 For the 20 approved applications, 14 of them (Applications No. A/NE-LT/356, 357, 358, 383, 398, 410, 438, 442, 443, 444, 453, 472, 486 and 506) were approved between 2006 and 2014 before the Board adopted a more cautious approach in approving applications for Small House development in recent years. They were approved mainly for reasons that the application was in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the village ‘environs’ (‘VE’) of the concerned villages; 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 proposed Small House was able to be connected to the planned sewerage system; and the proposed development was not incompatible with the surrounding uses and would unlikely cause any adverse impacts on the surrounding areas.
- 4.9 Since then, four applications (No. A/NE-LT/596, 603, 607 and 627) were approved in 2017 and 2018 on special consideration that the sites were the subject of previously approved applications (No. A/NE-LT/442, 443, 438 and 453) and there was no significant change in planning circumstances since the previous approvals were given.

- 4.10 Another two applications (No. A/NE-LT/600 and 601) were approved by the Board on review in 2017 mainly on considerations that the application sites were infill sites within the existing village settlements; the area to the east of the sites was natural slopes and further expansion of village development would be limited; the sites were surrounded by existing village houses and had low potential for rehabilitation of agricultural activities; the applications could be submitted earlier before the Board's adoption of a more cautious approach if not for the time spent in revising the layouts of the proposed Small Houses to address the local concern on the need to retain the local track through their lots; and approving the applications would unlikely set an undesirable precedent for similar applications to the east of the sites where existing vegetation and trees would be affected.
- 4.11 For the three rejected cases (Applications No. A/NE-LT/423, 446 and 619), Applications No. A/NE-LT/423 and 446 were rejected mainly for the reason of not complying with Interim Criteria in that the proposed development within WGG was not able to be connected to planned sewerage system in the area. Applications No. A/NE-LT/423 and 619 were also rejected on the ground of causing adverse landscape impact to the surrounding area. Besides, Application No. A/NE-LT/446 was rejected for the reason of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint was located outside the 'VE'/'V' zone of the concerned villages and it would cause adverse geotechnical impact on the surrounding area. Application No. A/NE-LT/619 was also rejected on the ground of land being still available within the "V" zone of concerned villages for Small House development.
- 4.12 Details of the above similar applications are summarized at Appendix III of **Annex A** and their locations are shown on **Plans R-1** and **R-2a**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 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) advises that the latest number of outstanding Small House applications for Tai Mong Che and Ma Po Mei are 27 and 15 respectively (the figures are 27 and 16 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 IV in **Annex A**, and recapitulated below:
- (a) no objection to the application;
 - (b) the applicant claimed himself as an indigenous villager (IV) of Tai Mong Che. However, his eligibility of Small House grant has yet to be ascertained;

- (c) the Site is an Old Schedule Lot under Block Government Lease (demised for agricultural use). The applicant is the registered owner of the subject lot and the Small House application has been received;
- (d) the Site is not covered by Modification of Tenancy or Building Licence;
- (e) more than 50% of the Site/footprint of the proposed house fall within the 'VE' of Tai Mong Che;
- (f) should the application be approved 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 Small House would be connected to public sewerage system. Whether it is acceptable or not will be considered when the case is 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 IV in **Annex A** and recapitulated below:

- (a) in general, he has reservation on the application. Such type of development should be confined within "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, the application only involves development of a Small House can be tolerated on traffic grounds.

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. There is an existing public sewer at Tai Mong Che for connection. Sewer connection to existing public sewer manhole, as suggested by the applicant, 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 as proposed;
- (ii) adequate land space within the Site should be reserved for connection of the proposed Small House to the public sewer; and
- (iii) 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 comment on the review application:

- (a) no objection to the application from the landscape planning perspective;
- (b) the Site is not connected to any proper vehicular and pedestrian access. Village houses are concentrated within “V” zone on the east of the Site;
- (c) the Site is situated in an area of rural landscape character comprising of scattered tree groups, abandoned farmlands and village houses. Although the proposed development is not entirely in line with the planning intention of “AGR” zone, it is not incompatible with the surrounding environment;
- (d) the Site is vacant and covered with grasses. No existing tree is recorded within the Site. Significant adverse impact to existing landscape resources is not anticipated; and
- (e) since there is not adequate space for meaningful landscaping within the Site to benefit the public realm, should the Board approve the application, an approval condition on submission and implementation of landscaping proposal is not recommended.

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 IV in **Annex A** and recapitulated below:

- (a) no objection in principle to the application from public drainage point of view;
- (b) should the application be approved by the Board, an approval condition on submission and implementation of drainage proposal for the Site is required 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 the Site;
- (d) the proposed Small House is located on unpaved ground and will increase the impervious area, resulting in 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 should also 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;
- (e) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer 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;
- (f) 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 sewerage system to DSD's network, he shall furnish DSD with his connection proposal for agreement. After obtaining DSD's agreement, the applicant shall submit a duly completed Form HBP1 with a cross cheque covering the technical audit fee and a plan showing the details of the proposed drainage connection works to DSD for formal application for the required connection. Upon DSD's acceptance of the connection application, the applicant shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicant;
- (g) the connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD;
- (h) to ensure the sustainability of the public sewerage network, the applicant is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the proposed development will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network and the applicant will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system;
- (i) should the applicant choose to dispose of sewage of the proposed development through other means, views and comments from the Environmental Protection Department should be sought; and

- (j) the applicant should 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 5.2 of the Appendix IV in **Annex A** and recapitulated below:

- no comment on the application from project interface point of view as there is no active project/contract under the control of CE/PM, DSD in the Site.

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 fallow land covered with weed. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as water supply and 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 the upper indirect WGG and is more than 30m

away from the nearest water course. More than 50% of the proposed Small House footprint is within 'VE' of Tai Mong Che and the Site is able to be connected to public sewerage system in the area as advised by the Environmental Protection Department. Thus, compliance of the application with Items B(a) and B(i) of the "Interim Criteria for Consideration of Application for NTEH/Small House in New Territories" can be reasonably established;

- (c) it is noted that DEP has no objection to the application provided that the applicant shall connect the proposed 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) 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 house to the sewerage system via the relevant private lot; and
- (d) 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.

Geotechnical Aspect

5.2.10 The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has the following comment on the review application:

- (a) it is noted that the applicant at the review stage has submitted a GPRR to support his application. Since the applicant has committed in the GPRR to undertake an NTHS and to implement mitigation measures, if necessary, as part of the proposed development, he has no comment on the application; and
- (b) should the application be approved by the Board, an approval condition on the submission of an NTHS and implementation of the mitigation measures recommended therein, as part of the development, is required.

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) Director of Electrical and Mechanical Services; and
- (d) District Officer/Tai Po, Home Affairs Department.

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

- 6.1 On 14.12.2018 and 1.2.2019, the review application and further information were published for public inspection. During the first three weeks of the statutory public inspection periods, five public comments were received. Two of them were from Tai Po Rural Committee 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 and there is no plan for agricultural rehabilitation; similar approved applications and village houses are found in the close vicinity of the Site; land available within the “V” zone for Small House development is not owned by the applicant; and sewerage connection proposal has been submitted by the applicant and no adverse environmental impact is anticipated.
- 6.2 The other three public comments from the Hong Kong Bird Watching Society and an individual objects to the application mainly for the reasons of being not in line with the planning intention of the “AGR” zone; setting of undesirable precedent; land being still available within the “V” zone for Small House development; and having potential adverse ecological impacts arising from associated site formation and slope stabilization measures.

7. Planning Considerations and Assessments

- 7.1 The subject application for development of a Small House was rejected by the RNTPC on 2.11.2018 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 there was no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area; and land being still available within the “V” zone of Tai Mong Che and Ma Po Mei for Small House development.
- 7.2 To support the review application, the applicant has put forward the justifications claiming that the Site has been abandoned for a few decades and would no longer be used for agricultural activities; the submitted GPRR has confirmed the proposed development is feasible from geotechnical point of view; there is no other land within the “V” zone owned by the applicant for Small House development; and the application is well supported by the Tai Po District Councillor, TPRC, IIR of Tai Mong Che and local villagers.
- 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. Regarding the applicant's claim that the Site has been abandoned and would no longer be used for farming, DAFC maintains his views that there are active agricultural activities in the vicinity (**Plan R-3**) and the Site with agricultural infrastructure (such as water supply and road access) available in the vicinity possesses potential for agricultural rehabilitation.

- 7.4 The applicant claims that the subject site is the only piece of land owned by him and he does not own any other land within the "V" zone for Small House development. 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 total future demand of 312 Small Houses (equivalent to about 7.8 ha of land), it is capable to meet the 42¹ 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.
- 7.5 The Site located at the bottom of a natural slope to the west is currently vacant and overgrown with grasses (**Plans R-2a** and **R-4**). The village proper of Tai Mong Che is situated to the east of the Site and approved similar applications for Small House developments are found to the immediate east. 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-3**). Given that there is no existing tree within the Site and adverse impact to significant landscape resources is not anticipated, CTP/UD&L of PlanD maintains his previous view of having no objection to the application and advises that an approval condition on submission and implementation of landscaping proposal is not recommended in view of not adequate space for meaningful landscaping within the Site to benefit the public realm. Besides, H(GEO) of CEDD advises that the proposed Small House is overlooked by steep natural hillside and meets the Alert Criteria requiring an NTHS. Since the applicant has submitted a GPRR and has committed to undertake an NTHS, he has no comment on the review application. In this regard, an approval condition on the submission of an NTHS and implementation of mitigation measures identified therein is recommended. Furthermore, C for T maintains his previous view of having general reservation on the review application but considers the application only involving the development of a Small House can be tolerated. Other relevant Government departments including CE/MN of DSD, CE/C of WSD, DEP, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the review application.

¹ Among the 42 outstanding Small House applications, 21 of them fall within the "V" zone and 21 straddle or outside the "V" zone. For those applications straddling or being outside the "V" zone, five of them have obtained valid planning approval from the Board.

- 7.6 It is noted that there are 23 similar applications for Small House development (**Plan R-2a**). Fourteen of them were approved before the Board's adoption of a more cautious approach in approving applications for Small House development. Since then, four more applications (No. A/NE-LT/596, 603, 607 and 627) were approved. Nevertheless, they were approved mainly on special consideration as the application sites were the subject of previously approved applications. The other two applications (No. A/NE-LT/600 and 601) were approved by the Board on review on 7.7.2017 mainly on special considerations that they were infill sites within the existing village settlements; the area to the east of them was natural slopes and further expansion of village development would be limited; they were surrounded by existing village houses and had low potential for rehabilitation of agricultural activities; and approving the applications would unlikely set an undesirable precedent for similar applications to the east of the sites where existing vegetation and trees would be affected. For the three rejected applications, Applications No. A/NE-LT/423 and 446 were rejected mainly for the reason of not being able to be connected to planned sewerage system in the area. For the remaining application (No. A/NE-LT/619) recently rejected on 26.1.2018, it was rejected mainly on the ground of land being still available within "V" zone of concerned villages to meet the outstanding Small House applications. The circumstances of the current application is similar to this rejected case.
- 7.7 Regarding the public comments received, the planning assessments above and departmental comments in paragraph 5 are generally relevant. For the public comments arguing that existing village houses are found in the close vicinity of the Site, they were approved by the Committee before the first promulgation of the Interim Criteria on 24.11.2000.

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 Tai Mong Che and Ma Po Mei 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 **29.3.2023**, 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;
- (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 the Town Planning Board; and
- (d) the submission of a Natural Terrain Hazard Study and implementation of the mitigation measures identified therein to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board.

Advisory Clauses

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

9. Decision Sought

- 9.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 9.2 Should the Board decide to 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

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| 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 |
| Plan R-3 | Aerial photo |
| Plan R-4 | Site photos |
| Annex A | RNTPC Paper No. A/NE-LT/654 |
| Annex B | Extract of minutes of the RNTPC meeting held on 2.11.2018 |
| Annex C | Secretary of the Town Planning Board's letters dated 16.11.2018 |
| Annex D1 | Letter dated 29.11.2018 from the applicant applying for a review of the RNTPC's decision |

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| Annex D2 | Further information received on 16.1.2019 |
| Annex D3 | Further information received on 23.1.2019 |
| Annex E | Public comments |
| Annex F | Recommended advisory clause |

PLANNING DEPARTMENT
MARCH 2019