

**TPB Paper No. 10528**

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

**REVIEW OF APPLICATION NO. A/NE-LT/656  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

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

**Lots 623 S.A and 623 S.B in D.D. 8, Ma Po Mei, Tai Po, New Territories**

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**1. Background**

- 1.1 On 9.10.2018, the applicant, Mr. WONG, Jason Ka Ho, represented by Mr. HUNG Shu-ping, sought planning permission to develop 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 7.12.2018, 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 “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;
  - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/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 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 House 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/656 (Annex A)
  - (b) Extract of minutes of the RNTPC meeting held on 7.12.2018 (Annex B)
  - (c) Secretary of the Board’s letter dated 21.12.2018 (Annex C)

## 2. **Application for Review**

On 8.1.2019, the applicant 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 D1**). On 14.1.2019, the applicant submitted supplementary information on 14.1.2019 providing more detailed justifications (**Annex D2**) in support of the review.

## 3. **Justifications from the Applicant**

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

- (a) planning approval is required for the proposed development as it is not in line with the planning intention of the "AGR" zone, hence, this should not be used as a rejection reason for the application;
- (b) the Site is divided into two levels and full of broken rocks. Compared with the adjoining "V" zone, the soil quality on the Site is not good for agricultural activities. Undertaking frequent excavation at the Site will endanger the adjoining slopes and cause landslides;
- (c) in response to the comments of Geotechnical Engineering Office, Civil Engineering and Development Department, the applicant undertakes to submit a detailed terrain survey report for its consideration and would submit engineering proposal and site formation plan for landslides prevention for approval by Building Authority;
- (d) the Site is the only available land owned by the applicant. The applicant's father and elder brother had previously submitted planning applications for Small House at the Site, which were subsequently abandoned as they were granted land within "V" zone by other family members. No such land is available for the applicant now. Besides, there are two existing village houses within the same "AGR" zone of the Site, which are located even further away from the "V" zone compared to the Site. It is not fair to reject the current application; and
- (e) the grounds of objections received from the public are unjustified as the Site is not located in vicinity of area with high archaeological nor ecological value. Agricultural activities at the Site could not protect birds as farmers will chase away the birds by all means.

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

***The Site and its Surrounding Areas (Plans R-1, R-2a, 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) generally flat and vacant covered with grasses;

- (b) entirely within the ‘VE’ of Ma Po Mei;
  - (c) located on a stepped ground with level difference of about 0.9m with the adjoining agricultural land located to the east; and
  - (d) not accessible via existing vehicular access and is about 15m from a footpath.
- 4.3 The surrounding areas are predominantly rural in character with fallow agricultural land, tree groups, plant nurseries and village houses. The village houses of Ma Po Mei are mainly located to the north of the site in the “V” zone covering both Ma Po Mei and Tai Mong Che Villages. Tree groups are found to the immediate west and northwest 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 Applications

- 4.6 The Site is the subject of two previous applications (No. A/NE-LT/411 and 412) submitted by different applicants for Small House development (**Plan R-2a**). The applications were rejected by the RNTPC on 18.2.2011 mainly for the reasons of not complying with the Interim Criteria in that the proposed Small Houses were within the upper indirect WGG and not being able to be connected to existing or planned sewerage system in the area, and there was insufficient information in the submission to demonstrate that the proposed development located within the WGG would not cause adverse impact on the water quality in the area.
- 4.7 Details of the previous applications are summarised at **Appendix III** of **Annex A** and its location is shown on **Plans R-1** and **R-2a**.

#### Similar Applications

- 4.8 When the s.16 application was considered by the RNTPC on 7.12.2018, there were 22 similar applications for Small House development since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan R-1**). Since then, no additional similar application

has been received and one similar application (No. A/NE-LT/647) has been rejected upon review by the Board on 25.1.2019.

- 4.9 For the 14 approved applications, 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 between 2002 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 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.
- 4.10 Since then, three applications (No. A/NE-LT/582 to 584) were approved with conditions in 2016 on sympathetic consideration as the sites were the subject of previously approved applications (No. A/NE-LT/432 to 434). Another application (No. A/NE-LT/542) for a NTEH (not Small House) was approved with conditions in 2015 mainly on the ground that the subject lot has a building status under the lease.
- 4.11 Another seven applications (No. A/NE-LT/291, 294, 298, 360, 368, 422 and 474) were rejected between 2003 and 2014 mainly for the reasons that the sites were 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. Application No. A/NE-LT/474 was also rejected on the ground of causing adverse impact on landscape resources in the surrounding areas. The remaining similar application (No. A/NE-LT/647) was rejected on 25.1.2019 on review on the ground that land was still available within the "V" zone of concerned village for Small House Development.
- 4.12 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 15 and 27 respectively (the figures were 13 and 26 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 applicant claimed himself to be an indigenous villager (IV) of Ma Po Mei. However, his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is old schedule lots held under Block Government Lease (demised for agricultural use). The applicant is the registered owner of the subject lots. The Small House application has been received by LandsD;
- (d) the Site falls entirely within the village ‘environs’ (‘VE’) of Ma Po Mei. It 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 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
- (f) 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 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 involving development of one 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 view on the s.16 application as stated in paragraph 3 of the Appendix V in **Annex A** and recapitulated below:

the Site is entirely within “AGR” zone and within WGG. She notes that the applicant proposed to connect to sewer manhole as shown in **Plan R-2a**. The public sewerage in the area should have sufficient capacity to accommodate sewerage arising from the proposed NTEH. She has no objection to the application on the conditions that:

- (i) the proposed house will be connected to the public sewer;
- (ii) the application would follow ProPECC PN 1/94 during site formation works in construction phase;
- (iii) adequate land space within the Site should be reserved for connection of the proposed to the public sewer;
- (iv) consents should be obtained from the adjacent lot owners for laying and maintaining sewage pipes across the adjacent lots; and
- (v) the cost of connection and maintenance 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 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) some reservation on the application from landscaping planning point of view;
- (b) the application site is the subject of two previous applications (No. A/NE-LT/411 and 412) submitted by different applicants for the same use. He had some reservations on the two previous applications from the landscape planning perspective, and both applications were rejected by the RNTPC on 18.2.2011;
- (c) based on the aerial photo taken on 3.1.2018, the Site is situated in an area of rural landscape character comprising natural woodland, active and abandoned farmlands and Small Houses. Although the proposed use is not in line with the planning intention of "AGR" zone, it is not incompatible with the surrounding environment;
- (d) according to his site inspection, the Site is vacant and covered with groundcovers. No existing tree is found within the Site. Adverse impact arising from the proposed development on significant landscape resources within the Site is not anticipated;

- (e) the Site is not connected with any existing proper footpath nor vehicle access, and no information on the construction access and future access is provided by the applicant. The potential impact on surrounding landscape resources generated by the construction access and future access cannot be ascertained;
- (f) the Site is located on a stepped ground and filling of land not exceeding 0.9m is required. No detailed information such as level plan or extent of filling and no assessment on the potential impact to the adjacent wooded knoll is provided by the applicant. Potential impact to the adjacent vegetation cannot be ascertained;
- (g) the approval of the application would further attract similar developments into the “AGR” zone. The cumulative effect of approving similar applications would result in degradation of landscape character and irreversible change to the area; and
- (h) given the Small House would not have adverse landscape impact on the surroundings and the applicant proposed the open area of the Site as garden, the standard condition for submission and implementation of landscape 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 V in **Annex A** and recapitulated below:

- (a) he has no objection in-principle to the proposed planning application from public drainage viewpoint;
- (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 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 development 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 condition 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. He should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected;
- (f) the application 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 their 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 his Division for formal application for the required connection. Upon his 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/owner is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premise will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network and the applicant/owner will be required to submit details of the proposed sewage 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 (EPD) should be sought; and
- (j) the applicant is required to maintain the drainage/sewerage systems properly and rectify/modify such 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.

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) notes the supplementary information provided by the applicant including the claims that the physical condition and soil quality of the Site is not good for agricultural activities (**Annex D2**). In response to applicant's claims, DAFC commented that the Site can be used for agricultural activities such as greenhouse, plant nurseries, etc 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 overgrown with grass and weeds. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as footpath 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) no objection to the application;
- (b) the Site is located within upper indirect WGG and the proposed Small House is situated more than 30m from the nearest stream course;
- (c) DEP indicated that the Site is able to connect to the public sewerage system in the area and he has no objection to the application provided that 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) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed Small House to the sewerage system via the relevant private lots; 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.

#### Geotechnical Aspect

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

- (a) the Site is overlooked by steep natural hillside and meets the Alert Criteria for a natural terrain hazard study (NTHS). He has in-principle objection to the application unless the applicant is prepared to undertake an NTHS and to provide necessary mitigation measures if found necessary as part of the proposed development;
- (b) although the applicant has committed in his supplementary information to undertake a detailed terrain survey report and engineering proposal/site formation plan, he has not committed to undertake the NTHS. Furthermore, the applicant has not submitted a Geotechnical Planning Review Report (GPRR) as required under the "GEO Advice Note for Planning Applications under Town Planning Ordinance (Cap.131)";
- (c) the supplementary information provided by the applicant regarding the site condition and impacts of excavations on the adjoining slope is noted. Without further detailed geotechnical assessment, GEO is unable to provide any geotechnical comments at this stage; and
- (d) 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 is required.

Electricity Safety and Town Gas Safety

5.2.11 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) he has no particular comment on the application from electricity supply safety aspect;
- (b) however, in the interests 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 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 or in the vicinity of the Site. The applicant should also be reminded to observe the “Code of Practice on Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines;
- (c) there is a high pressure underground town gas transmission pipeline (running along Lam Kam Road) in the vicinity of the Site;
- (d) the applicant/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
- (e) the applicant/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”.

5.2.12 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) District Officer (Tai Po), Home Affairs Department; and
- (c) Project Manager (North), Civil Engineering and Development Department.

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

On 18.1.2019, the review application was published for public inspection. During the first three weeks of the statutory public inspection periods, two public comments were received from The Hong Kong Bird Watching Society and an individual, objecting to the application

mainly for the reasons that land was still available within the “V” zone of Ma Po Mei and Tai Mong Che for Small House development, the proposed development was not in line with the planning intention of “AGR” zone, and approving the application would set an undesirable precedent.

## 7. **Planning Considerations and Assessments**

- 7.1 The subject application for development of a Small House was rejected by the RNTPC on 7.12.2018 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 is no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding 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 put forward the justifications claiming that the Site is unsuitable for agricultural activities due to its physical conditions and poor soil quality; the applicant undertakes to submit detailed terrain survey report and engineering proposal/site formation plan to prevent landslides; the Site is the only available land owned by the applicant; there are two existing village houses in the vicinity of the Site; and the site is not located in vicinity of areas with high archaeological nor ecological value.
- 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 claims that the Site is not suitable for agricultural rehabilitation, DAFC maintains his view that there are active agricultural activities in the vicinity (**Plan R-3**) and advise that the Site can be used for agricultural activities such as greenhouse, plant nurseries, etc.
- 7.4 The applicant claims that the Site is the only available land owned by him and there are no other available land for development within the “V” zone. 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 42<sup>1</sup> 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

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<sup>1</sup> 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.

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 to the south of Ma Po Mei (**Plan R-2a**), is vacant and covered with grass (**Plan R-4**). The proposed development is not incompatible with the surrounding area which is predominantly rural in character with village houses, natural woodland, and agricultural land (**Plan R-2a**). Adverse impact arising from the proposed development on significant landscape resources within the Site is not anticipated. Furthermore, there is no feature of high archaeological/ecological value near the Site. Nevertheless, CTP/UD&L, PlanD maintains her views of having reservation on the application from the landscape planning point of view as approval of the application would further attract similar developments into the "AGR" zone, and the cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact.
- 7.6 Regarding the applicant's undertaking to submit detailed terrain survey report and engineering proposal/site formation plan to prevent landslides, H of GEO maintains his views that the applicant should undertake to conduct a NTHS and provide necessary mitigation measures if found necessary as part of the proposed development and is required to submit a GPRR in support of this planning application which has not yet been submitted so far. Therefore, he maintains his views of having in-principle objection to the application.
- 7.7 The applicant also claims that as there are two existing village houses in the vicinity of the Site within the same "AGR" zone (**Plan R-2a**), it is unfair not to approve this application. On this point, it should be noted that the existing village house located to the southwest of the Site was in existence immediately before the first publication of Lam Tsuen Interim Development Permission Area (IDPA) Plan on 31.8.1990 and the village house located to the south of the Site was approved before the first promulgation of the Interim Criteria on 24.11.2000 (No. DPA/A/NE-LT/29). The planning circumstances of the two existing houses are not applicable to the current application.
- 7.8 The Site is the subject of two previous applications (No. A/NE-LT/411 and 412) submitted by different applicants for proposed NETH (Small House) development. The applications were rejected by the RNTPC on 18.2.2011 mainly for the reasons of not complying with the Interim Criteria in that the proposed Small Houses are within the upper indirect WGG and not being able to be connected to the planned public sewers in the area, and there was insufficient information in the submission to demonstrate that the proposed development located within the WGGs would not cause adverse impact on the water quality in the area. In this current application, the applicant undertakes to connect the proposed Small House with the existing public sewerage system. CE/C, WSD has no objection to the application.
- 7.9 There are five similar applications in close proximity to the Site (**Plan R-2a**). All of them were considered before the Board's adoption of a more cautious approach in approving applications for Small House development in recent years. Two applications (No. A/NE-LT/268 and 465) were approved for the reasons of being in compliance with the Interim Criteria in that more than 50% of the footprint of the proposed Small Houses fell within the 'VE' and 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. The remaining three applications (No. A/NE-LT/291, 360 and 422) were rejected mainly for being not in line with the planning intention of the “AGR” zone and not in compliance with the Interim Criteria in that the proposed Small Houses were located within the WGGs and were not able to be connected to the existing or planned sewerage system in the area.

- 7.10 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 development does not comply with the Interim Criteria for Consideration of Application for NTEH/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 “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 **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 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**

<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/656
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 7.12.2018
<b>Annex C</b>	Secretary of the Town Planning Board's letters dated 21.12.2018
<b>Annex D1</b>	Letter dated 8.1.2019 from the applicant applying for a review of the RNTPC's decision
<b>Annex D2</b>	Supplementary information received on 14.1.2019
<b>Annex E</b>	Similar applications
<b>Annex F</b>	Public comments
<b>Annex G</b>	Recommended advisory clauses

**PLANNING DEPARTMENT**  
**MARCH 2019**