

**TPB Paper No. 10708**

**For Consideration by  
the Town Planning Board on 15.1.2021**

**REVIEW OF APPLICATIONS NO. A/NE-LT/685 and 686  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House - Small House)  
on each of the application sites in “Agriculture” zone  
Lots 913 S.B. ss.1, and Lots 913 S.B. RP  
in D.D. 8, Ma Po Mei Village, Lam Tsuen, Tai Po, New Territories**

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**1. Background**

- 1.1 On 27.5.2020, the applicants, Mr. LEUNG Tsz Ho and Mr. LEUNG Tsz Lun represented by Mr. HUNG Shu Ping, sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) on each of the application sites (the Sites) under s.16 of the Town Planning Ordinance (the Ordinance). The Sites fall 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 1.9.2020, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the applications and the reasons for each of them 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 the applicant fails to demonstrate that the proposed development located within water gathering grounds (WGGs) 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 House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.”

1.3 For Members' reference, the following documents are attached:

- |     |   |           |
|-----|---|-----------|
| (a) | RNTPC Paper No. A/NE-LT/685 and 686                       | (Annex A) |
| (b) | Extract of minutes of the RNTPC meeting held on 1.9.2020  | (Annex B) |
| (c) | Secretary of Town Planning Board's letter dated 18.9.2020 | (Annex C) |

## 2. **Application for Review**

On 5.10.2020, the applicants applied under section 17(1) of the Ordinance for a review of the RNTPC's decision to reject the applications (**Annex D1**). In support of the review applications, the applicants submitted further information (FI) providing written justifications which was received by the Board on 21.10.2020 (**Annex D2**).

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

The justifications put forth by the applicants in support of the review applications are detailed in the submission at **Annex D2** and summarised as follows:

- (a) the applicants clarify that they became the registered owners of their respective lots on 18.1.2016 and 21.1.2002 respectively. As such, they are not the same applicants for Applications No. A/NE-LT/105, 106 and 204;
- (b) there are a number of Small Houses already built within the same "AGR" zone. Plan A-2a of the RNTPC paper also indicates that four planning applications for Small House development have been approved. The rejection reason of not being in line with the planning intention of "AGR" zone is inconsistent with these approved Small House developments. Moreover, criterion (d) of the Interim Criteria states that sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses;
- (c) the Sites are not ideal locations for agricultural rehabilitation as they are located at a higher level than the adjacent Lam Tsuen River and there is no river tributary nearby for watering purpose;
- (d) the applicants commit to appoint authorized professionals to prepare sewerage/drainage proposals and will only commence Small House development after obtaining approval from relevant departments;
- (e) given the technology advancement, the professionals hired by the applicants could overcome the level difference of the sewerage connection points. It is believed that the proposed design and installations will increase the efficiency of sewage disposal and ensure no adverse drainage impact to the surrounding area. Environmental Protection Department and Water Supplies Department might have overlooked the FI submitted by the applicants and the revised comments from Drainage Services Department (DSD) stating no in-principle objection to the applications at the s.16 application stage; and
- (f) the environmental groups and individuals who submitted opposing public comments against the applications might be related and have political purpose. Their reasons are similar and repetitive in other applications.

#### **4. The Section 16 Applications**

##### *The Sites and their Surrounding Areas* (Plans R-1, R-2a and photos on Plans R-3 and R-4)

- 4.1 The situation of the Sites and the surrounding areas at the time of consideration of the s.16 applications 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 Sites are:
- (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 Sites. The village clusters of Ma Po Mei and Ping Long are situated to the northwest and southeast of the Sites 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 for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. On 23.8.2002, criterion (i) which requires that the application site, if located within the 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 Sites are the subject/part of the subject of five previous applications (No. A/NE-LT/105, 106, 204, 368 and 647) for proposed Small House developments. As shown on **Plan R-2a**, Application No. A/NE-LT/685 (i.e. House 1 at Lot 913 S.B ss.1) is the subject/part of the subject of three previous applications (No. A/NE-LT/105, 204 and 647), whilst Application No. A/NE-LT/686 (i.e. House 2 at Lot 913 S.B RP) is the subject/part of the subject of four previous applications (No. A/NE-LT/106, 204, 368 and 647).

- 4.7 Applications No. A/NE-LT/105 and 106, each for the development of a Small House submitted by different applicants from the current application, were rejected by the Board on review on 23.1.1998 (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 submitted by the applicants of these two applications, was approved by the Committee on 13.8.1999 (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 and submitted by the same applicant of Application No. A/NE-LT/686, was rejected by the Committee on 2.2.2007 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 The latest previous application (No. A/NE-LT/647), for the development of two Small Houses covering the same sites and submitted by the same applicants of Applications No. A/NE-LT/685 and 686, was rejected by the Board on review on 25.1.2019 for the reasons of being not in line with the planning intention of “AGR” zone; not complying with the Interim Criteria in that the applicants failed to demonstrate 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 being still available within the “V” zone of the concerned villages for Small House development.
- 4.11 Details of the above applications are summarised at Appendix III of **Annex A** and their locations are shown on **Plans R-1** and **R-2a**.

#### Similar Applications

- 4.12 When the s.16 applications were considered by the RNTPC on 1.9.2020, there were 23 similar applications for Small House development in the vicinity of the Sites and within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan R-1**), of which 14 were approved and nine were rejected. There has been no change in the number of similar applications since then.
- 4.13 For the 14 approved cases, 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 mainly for reasons that the proposed developments were in

compliance with the Interim Criteria in that more than 50% of the proposed Small House footprint 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.

- 4.14 After the Board's adoption of a more cautious approach in August 2015, Applications No. A/NE-LT/582 to 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 to 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 ground of having building entitlement.
- 4.15 For the rejected cases, eight of them (Applications No. A/NE-LT/291, 294, 298, 360, 411, 412, 422 and 474) were rejected by the Committee/the Board on review between 2003 and 2014 mainly for the reasons of being not in line with the planning intention of "AGR" zone; the proposed development was 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 as it would cause adverse impact on landscape resources in the surrounding areas. Regarding the latest rejected application (No. A/NE-LT/656), although it was able to be connected to the existing public sewerage system, it was rejected by the Board on review in 2019 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.
- 4.16 Details of the above similar applications are summarized at Appendix IV 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 applications made by relevant Government departments are stated in paragraph 9 and Appendix V of **Annex A**.
- 5.2 For the review applications, the following Government departments have been consulted and their views are summarized as follows:

### Land Administration

- 5.2.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):
- (a) the updated number of outstanding Small House applications for Ma Po Mei and Tai Mong Che are 14 and 24 respectively (the figures are 15 and 25 at the s.16 application stage), whilst the 10-year Small House demand forecast for the villages concerned remains unchanged at 150;
  - (b) he maintains his other previous views on the s.16 applications which are recapitulated below:

- (i) no objection to the applications;
- (ii) the applicants are indigenous villagers of Ma Po Mei Village as confirmed by the respective Indigenous Inhabitant Representative (IIR) of the concerned village. However, their eligibility of Small House grant has yet to be ascertained;
- (iii) the Sites are held under Block Government Lease demised for agricultural use and not covered by any Modification of Tenancy or Building Licence;
- (iv) the Sites fall entirely within the 'VE' of Ma Po Mei. Small House applications submitted by the applicants for the Sites are still under processing; and
- (v) if and after planning permissions have 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.

### Agriculture

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

- (a) agricultural land with farm access and/or irrigation water source is generally considered as having potential for agricultural rehabilitation. Actual farming situation in the vicinity of the Sites would also be taken into account; and
- (b) a site inspection to the Sites was conducted in June 2020. Based on the inspection findings, there are active farming activities such as vegetable fields and plant nurseries in the vicinity and along Lam Tsuen River, and agricultural infrastructure such as road access and water source is also available. In this connection, the applications are not supported from agricultural development point of view as the Sites possess potential for agricultural rehabilitation.

### Environment

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

- the Sites fall within "AGR" zone and is within the WGG. It is noted that the written representation submitted by the applicants (**Annex D2**) does not include new information to demonstrate the proposed Small Houses are able to be connected to the public sewerage system in the area.

Therefore, his previous comments on the s.16 applications are still valid which are recapitulated below:

- (i) does not support the applications;
- (ii) the applicants propose to connect the Small Houses to the existing public sewer at Ma Po Mei Village, which is available for connection and with sufficient capacity;
- (iii) it is noted that the applicants have not submitted FI as requested by DSD to confirm the technical feasibility of the proposed sewerage connection. Hence, there is insufficient information to demonstrate that the proposed Small Houses could be connected to the public sewer for sewage disposal; and
- (iv) as the Sites are in close proximity to Lam Tsuen River, the applicants are advised to follow *ProPECC PN 1/94 Construction Site Drainage* to properly handle and dispose of site discharge during construction phase.

#### Drainage and Sewerage

##### 5.2.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no further comments on the applicants' written representation (**Annex D2**) from public drainage point of view;
- (b) on sewerage aspect, the proposed Small Houses are located within an area where connections to existing sewerage networks are available in the vicinity. There is no stud pipe reserved for the proposed Small Houses. According to DSD's record and the base map level, the nearest existing public sewerage system having pipe invert level at 52.41mPD is located at a higher elevation than the proposed development at site level 52.1mPD. As such, discharge of sewage by gravity from the proposed development at the current site level to the existing public sewerage network is not feasible;
- (c) he maintains his other previous views on the s.16 applications which are recapitulated below:

#### *Drainage:*

- (i) no in-principle objection to the applications from public drainage viewpoint. If the applications are approved, a condition on submission and implementation of drainage proposal for the Sites is required to ensure that it will not cause adverse drainage impact to the adjacent area;
- (ii) there is no existing DSD maintained public drain in the vicinity of the Sites. The proposed Small Houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and overland flow from other areas



surrounding the Sites. The proposed developments are located on unpaved ground and will increase the impervious area, which will result 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;

- (iii) the applicants should design the drainage proposals based on actual site condition for DSD's comment/agreement. 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;

*Sewerage:*

- (iv) the applicants have suggested in their FI (at the s.16 application stage) raising the sewerage outlet to a higher level or using an automatic pumping system. A sewerage proposal should be submitted by the applicants to confirm the feasibility of sewerage connection. Moreover, if the applicants intend to raise the site formation level, they should demonstrate that it will not have adverse flooding risk to the nearby premises;
- (v) should the sewerage connection proposal be agreed by DSD, the applicants 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 applicants shall carry out the proposed connection works in accordance with DSD Standard Drawings at the resources of the applicants. The connection pipe outside the lot boundaries shall be handed over to DSD for maintenance after satisfactory technical audit by DSD. In addition, to ensure the sustainability of the public sewerage network, the applicants/owners are required to demonstrate to the satisfaction of DSD in such manner that the runoff within the subject premises will be served by designated stormwater collection and discharge systems and shall not be drained to the public sewerage network and the applicants/owners will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system;
- (vi) 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; and

- (vii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP, District Officer/Tai Po and/or relevant private lot owners should be sought.

Water Supply

5.2.5 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he objects to the review applications; and
- (b) as no new information is provided to demonstrate the proposed Small Houses are able to be connected to the public sewerage, his previous comments on the s.16 applications are still valid which are recapitulated below:
  - (i) he objects to the applications;
  - (ii) the Sites are located within upper indirect WGG and the proposed Small Houses are situated less than 30m from the nearest stream course; and
  - (iii) as advised by DSD, the connection from the proposed Small Houses to the public sewerage system in the area is considered technically infeasible. Therefore, compliance with the “Interim Criteria for Consideration of Applications for NTEH/Small House in New Territories” cannot be established.

5.3 The following Government departments maintain their previous comments on the s.16 applications as stated in Appendix V of **Annex A**:

- (a) Commissioner for Transport;
- (b) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (c) Director of Fire Services; and
- (d) Director of Electrical and Mechanical Services.

5.4 The following Government departments maintain their previous views of having no objection to / no comment on the applications as stated in paragraph 9.3 of **Annex A**:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager (North), Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) District Officer/Tai Po, Home Affairs Department.

**6. Public Comments on the Review Applications Received During Statutory Publication Periods**

6.1 The review applications and FI submitted by the applicants were published for public inspection. During the statutory public inspection periods, a total of four public

comments received from the Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual (**Annex F**) objecting to the applications mainly on the grounds of not being in line with the planning intention of the “AGR” zone; not complying with the Interim Criteria in that the proposed developments are not able to be connected to the existing/planned sewerage system causing adverse impact on the water quality; land being still available within the “V” zone of Ma Po Mei and Tai Mong Che for Small House developments; and setting of an undesirable precedent leading to a general degradation of the rural environment of the area.

- 6.2 At the s.16 application stage, four public comments objecting to the applications were received. Their details are set out in paragraph 10 of **Annex A**.

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

- 7.1 The subject applications for a proposed Small House at each of the Sites zoned “AGR” were rejected by the RNTPC on 1.9.2020 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 development located within WGGs 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 being still available within the “V” zones of Ma Po Mei and Tai Mong Che for Small House development.
- 7.2 In support of the review applications, the applicants have put forward justifications that the Sites are not ideal locations for agricultural rehabilitation; there are no insurmountable technical difficulties to overcome the level difference between the proposed developments and the public sewerage connection points, and the proposed Small Houses would not cause adverse drainage impacts to the surrounding area; the Sites are infill sites among existing Small Houses and approved planning applications for Small House development within the same “AGR” zone; and public comments against the applications have political purpose.

### **Potential for Agricultural Rehabilitation**

- 7.3 The Sites fall entirely within the “AGR” zone on the OZP. The proposed Small House developments are 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, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applicants claim that the Sites are not ideal locations for agricultural rehabilitation as they are located at a higher level than the adjacent Lam Tsuen River, and there is no river tributary nearby for watering purpose. In this regard, DAFC advises that according to their site inspection, there are active farming activities such as vegetable fields and plant nurseries in the vicinity and along Lam Tsuen River, and agricultural infrastructure such as road access and water source is available. Hence, the Sites possess potential for agricultural rehabilitation and he maintains his previous view of not supporting the applications from agricultural development point of view.

Connection to Public Sewerage System

- 7.4 The Sites are within the upper indirect WGG. The applicants in the written representation (**Annex D2**) commit to appoint authorized professionals to prepare sewerage/ drainage proposals and will only commence the Small House developments upon Government departments' approval of the proposals. The applicants also emphasize that, given the technology advancement, it is believed that the problem of level difference in the sewerage connection points could be overcome and there will be no adverse sewerage/drainage impacts to the surrounding area. However, both DEP and CE/C of WSD point out that the applicants have not included any new information in the written representation (**Annex D2**) to demonstrate the proposed Small Houses are able to be connected to the public sewerage system in the area, and hence they maintain their previous views of not supporting the applications. Besides, CE/MN of DSD reiterates that according to their record and the base map level, the nearest existing public sewerage system having pipe invert level at 52.41mPD is located at a higher elevation than the proposed development at site level 52.1mPD. As such, discharge of sewage by gravity from the proposed development at the current site level to the existing public sewerage network is not feasible. Other relevant Government departments including C for T, CHE/NTE of HyD, PM(N) and H(GEO) of CEDD and D of FS have no objection to or adverse comment on the applications.
- 7.5 In the written representation (**Annex D2**), the applicants claim that DEP and CE/C of WSD might have overlooked the FI submitted and the revised comments from CE/MN of DSD stating no in-principle objection to the applications at the s.16 application stage. On this point, according to paragraphs 5(a) and (d) in Appendix V of **Annex A**, it is noted that although CE/MN of DSD has no in-principle objection to the applications from public drainage viewpoint, he points out that discharge of sewage by gravity from the proposed development to the existing public sewerage network is not feasible due to level difference. Based on the fact that the technical issue in the proposed sewerage connection is yet to be resolved by the applicants, DEP and CE/C of WSD do not support the s.16 applications.

Infill Sites

- 7.6 The applicants point out that there are Small Houses already built and approved similar applications for Small House development in the vicinity of the Sites within the same "AGR" zone, and argue that the Sites should be considered as infill sites which warrant sympathetic consideration under the Interim Criteria. It should be noted that, as shown on **Plan R-2a**, while the Sites are located next to a number of approved applications including Applications No. A/NE-LT/582, 583 and 584 to its south, there is still land to the immediate northeast of the Sites. As the Sites are not completely surrounded by existing and approved Small Houses, they are not considered as infill sites as claimed by the applicants.

Availability of Land within "V" zone

- 7.7 Based on the latest estimate by PlanD, about 2.05 ha of land (or equivalent to about 82 Small House sites) is available within the "V" zone of Ma Po Mei and Tai Mong Che (**Plan R-2b**). Although such land available within the "V" zone for Small House development is insufficient to fully meet the future demand of 188 Small Houses, it is capable to meet the 38 outstanding Small House applications. According to the more cautious approach adopted by the Board in August 2015, in considering whether there

is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. As there is no significant change in planning circumstances since the subject applications were rejected by RNTPC, there is no strong reason to depart from the RNTPC’s previous decision.

#### Similar Applications

- 7.8 As shown on **Plan R-2a**, there are 11 similar applications covering five sites in close proximity to the Sites. Except for two applications (No. A/NE-LT/294 and 298) rejected 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, the other nine applications were approved. Of which, five applications (No. A/NE-LT/274, 406, 432, 433 and 434) were approved before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015. Subsequently, three applications (No. A/NE-LT/582 to 584) with previous approvals were approved in 2016 on sympathetic consideration. The remaining application (No. A/NE-LT/542) for the development of an NTEH was approved in 2015 mainly on the grounds of having building entitlement. It should be noted that these similar applications were either approved before the Board’s adoption of a more cautious approach in August 2015; and/or the application sites were the subject of previously approved applications; and/or the application site has building entitlement. The subject application sites are neither covered by previously approved application submitted by the same applicant nor having building entitlement that warrant sympathetic consideration.

#### Public Comments

- 7.9 Regarding the public comments objecting to the review applications on the grounds as detailed in paragraph 6 above, Government departments’ comments and the planning assessments above 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 applications by the RNTPC, the Planning Department maintains its previous view of not supporting the review applications for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “Agriculture” (“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 the applicant fails to demonstrate that the proposed development 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 House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 8.2 Alternatively, should the Board decide to approve the review applications, it is suggested that each of the permissions shall be valid until 15.1.2025, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Advisory Clauses

- 8.3 The recommended advisory clauses for each of the permissions are attached at **Annex F**.

**9. Decision Sought**

- 9.1 The Board is invited to consider the applications for a review of the RNTPC’s decision and decide whether to accede to the applications.
- 9.2 Should the Board decide to reject the review applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 9.3 Alternatively, should the Board decide to approve the review applications, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

**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/685 and 686
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 1.9.2020
<b>Annex C</b>	Secretary of the Town Planning Board’s letters dated 18.9.2020
<b>Annex D1</b>	Letter dated 5.10.2020 from the applicants’ representative applying for a review of the RNTPC’s decision
<b>Annex D2</b>	Written representation submitted by the applicants’ representative received on 21.10.2020
<b>Annex E</b>	Public comments
<b>Annex F</b>	Recommended advisory clauses

**PLANNING DEPARTMENT  
JANUARY 2021**