

REVIEW OF APPLICATION NO. A/NE-TK/663
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone
Lot 612 S.D in D.D. 28, Tai Mei Tuk, Tai Po, N.T.

1. Background

- 1.1 On 4.1.2019, the applicant, Mr. LEE Yuk Ming Michael represented by Ratio Architecture and Planning Company Limited, 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 entirely within an area zoned “Green Belt” (“GB”) on the approved Ting Kok Outline Zoning Plan No. S/NE-TK/19 (**Plan R-1**).
- 1.2 On 22.2.2019, 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 “Green Belt” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from this planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Lung Mei and Tai Mei Tuk which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “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-TK/663 | (Annex A) |
| (b) | Extract of minutes of the RNTPC meeting held on 22.2.2019 | (Annex B) |
| (c) | Secretary of Town Planning Board’s letter dated 8.3.2019 | (Annex C) |

2. Application for Review

On 19.3.2019, the applicant’s representative applied, under s.17(1) of the Ordinance, for review of the RNTPC’s decision to reject the application (**Annex D1**). On 14.5.2019, a written representation submitted by the applicant’s representative in support of the review application was received by the Board (**Annex D2**).

3. **Justifications from the Applicant**

The justifications put forth by the applicant's representative in support of the review application are detailed in the written representation at **Annex D2**. They can be summarized as follows:

- (a) the land available for Small House development in "V" zone has been overestimated. The estimate includes the land currently used as access roads (Sites 1 to 5 on **Drawings R-1 and R-3 to R-6**), private gardens/landscaping area/open space (Sites 5 to 16 and 20 to 22 on **Drawings R-1, R-2 and R-4 to R-6**), and car parking areas (Sites 3 and 17 to 19 on **Drawings R-1 to R-3**) which are not suitable for Small House development. Moreover, in the course of processing Small House applications by Lands Department (LandsD), relevant Government departments tend to require the Small House to adopt a setback distance of about 10m away from Ting Kok Road in Tai Mei Tuk Village as non-building area (Sites 23 and 24 on **Drawings R-5 and R-6**);
- (b) in view of (a) above, the land available within the "V" zone of Lung Mei and Tai Mei Tuk for Small House development should be adjusted to 60 Small House sites which is not capable to meet 69 outstanding Small House applications;
- (c) LandsD would not process the Small House applications for private treaty grants or land exchange in accordance with the High Court Judgement of the Judicial Review on the Small House Policy. The available land is further reduced as the Government land in the "V" zone would not be available for Small House development;
- (d) there were similar approved applications (No. A/NE-TK/545, 573 and 585) in the vicinity of the Site. They were approved on the considerations that the proposed houses were located in the close proximity to the existing village cluster and village houses/approved Small House sites. The area had gradually been developed into an extension of the existing village. As such, the subject application should also be approved should the same planning considerations and assessments be applied;
- (e) the Site is largely paved and is not incompatible with the surrounding areas. All relevant Government departments have no objection to the application. No adverse impact arising from the proposed development is expected; and
- (f) the applicant has submitted a sewerage connection proposal and obtained owners' consents of the concerned lots in support of the application.

4. **The Section 16 Application**

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

- 4.1 The situation of the Site and the surrounding areas at the time of the consideration of the s.16 application by the RNTPC were described in paragraphs 8.1 and 8.2 of **Annex A**. There has not been any major change in planning circumstances of the area since then.
- 4.2 The Site is:
 - (a) vacant and partly hard-paved;

- (b) located at the eastern fringe of Tai Mei Tuk;
 - (c) entirely within the 'VE' of Tai Mei Tuk and Lung Mei; and
 - (d) connected via a paved driveway to Ting Kok Road to the south.
- 4.3 The surrounding areas are predominantly rural in character comprising of scattered tree groups, woodland patches and village houses. Village clusters are mainly found to the west of the Site.

Planning Intention

- 4.4 The planning intention of the "GB" zone is primarily for defining the limit of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria was promulgated on 7.9.2007 which is at Appendix II of **Annex A**.

Town Planning Board Guidelines

- 4.6 The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "Green Belt" zone under section 16 of the Town Planning Ordinance', which is relevant to the consideration of the s.16 application, is still effective. The relevant assessment criteria of the Guidelines are mentioned in paragraph 4 of **Annex A**.

Previous Application

- 4.7 The Site is not involved in any previous planning application.

Similar Applications

- 4.8 When the s.16 application was considered by the RNTPC on 22.2.2019, there were 81 similar applications since the first promulgation of the Interim Criteria on 24.11.2000. Since then, there was an additional similar application (A/NE-TK/664) (**Plan R-1**). Out of the 82 similar applications (including 66 within "GB" zone only and 16 straddling on both "GB" and "V" zones), 49 cases were approved and 33 were rejected.
- 4.9 Out of the 33 rejected applications, five of them (No. A/NE-TK/258, 263, 273, 274 and 279) were rejected by the RNTPC or the Board on review in 2009 mainly for reasons of not complying with the Interim Criteria and the TPB PG-No. 10 for development within "GB" zone in that they would likely involve site formation and slope stabilisation works resulting in clearance of natural vegetation and damage of existing landscape of the surrounding area. Subsequently, the concerned Small

Houses were approved under applications No. A/NE-TK/327, 328, 344, 392 and 393 between 2010 and 2012 mainly because the applicants had submitted Landscape Impact Assessment Report, Geotechnical Planning Review Report and Natural Terrain Hazard Study Report to demonstrate that no cutting of slopes and no felling of trees on site or in the adjacent woodland would be required, and thus the proposed developments would not cause adverse geotechnical or landscape impacts on the surrounding area.

- 4.10 For the remaining 28 rejected applications (No. A/NE-TK/372, 401, 426, 443, 444, 486 – 493, 519, 520, 524, 555, 557, 558, 559*, 570*, 571*, 577, 578, 598*, 622, 635 and 660), they were rejected by the RNTPC/the Board on review between 2011 and 2018 mainly for reasons of being not in line with the planning intention of “GB” zone; and/or not complying with the Interim Criteria and TPB PG-No. 10 in that the applicants failed to demonstrate that the proposed Small Houses would not cause adverse landscape, sewage, water quality and/or geotechnical impacts on the surrounding areas. Moreover, the proposed Small House footprints under applications No. A/NE-TK/372, 443, 444, 519 and 520 fell outside both the “V” zone and the village ‘environs’ (‘VE’). Applications No. A/NE-TK/555, 557 – 559, 570, 571, 577, 578, 598, 622, 635 and 660 were also rejected as land was still available within the “V” zone for Small House developments.
- 4.11 There were 36 applications (No. A/NE-TK/140, 177, 179, 192, 204, 211, 213, 217, 226, 243, 259 – 262, 275 – 278, 294, 362, 363, 367, 373, 375, 419, 425, 440, 449, 450, 473, 476, 521, 522, 531, 540 and 545) approved with conditions by the RNTPC between 2002 and April 2015 before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015. These applications were approved mainly on the considerations of generally in compliance with the Interim Criteria in that the proposed Small House footprints fell mostly within the ‘VE’; there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned villages at the time of consideration; no significant adverse impact on the surrounding areas; and/or being the subject of previously approved applications. Although some proposed Small Houses under Application No. A/NE-TK/204 (applied for 37 Small Houses) were not in line with the Interim Criteria in that less than 50% of their footprints fell within the ‘VE’, the application was approved on sympathetic consideration in that planning permission for Small Houses had previously been granted by the Board in 2000 before the first promulgation of the Interim Criteria on 24.11.2000 and the related Small House grant applications had been approved by LandsD in 2001.
- 4.12 After the Board’s adoption of a more cautious approach, seven applications (No. A/NE-TK/573, 580, 582, 585, 618, 654 and 664) were approved between 2016 and 2019 on sympathetic considerations in that the sites were the subject of previously approved applications (No. A/NE-TK/580, 582, 618, 654 and 664); the proposed houses were located in close proximity to the existing village cluster (No. A/NE-TK/573, 582 and 585); and the processing of Small House land grants were at an advanced stage (No. A/NE-TK/618, 654 and 664).

* Applications No. A/NE-TK/559, 570, 571 and 598 are the subject of Town Planning Appeals lodged by the respective applicants in 2016 and 2017. The Appeals were dismissed by the Town Planning Appeal Board on 22.3.2017, 17.10.2017 and 3.4.2019 respectively.

- 4.13 For the remaining approved application (No. A/NE-TK/432), it was the subject of a Town Planning Appeal (No. 5/2014) allowed by the Town Planning Appeal Board on 22.10.2015 mainly on considerations of the unique characteristics of the appeal site, i.e. located on agricultural land not covered by dense vegetation; well separated from the edge of the Pat Sin Leng Country Park; close to adjacent Small House developments; and being able to be connected to public sewer.
- 4.14 Details of the above similar applications are summarized in **Annex E** and their locations are shown on **Plan R-1**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 10 and Appendix IV of **Annex A**.
- 5.2 For the review application, relevant Government department has been further consulted and his views on the review application are summarized as follows:

Land Administration

- 5.2.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) the number of outstanding Small House applications for Tai Mei Tuk and Lung Mei are 33 (same figure at s.16 application stage) and 29 (instead of 36 at s.16 application stage) respectively¹ and 10-year Small House demand forecast remain unchanged at 150 and 97 respectively; and
- (b) he maintains his other previous views on the s.16 application which are recapitulated below:
 - (i) no objection to the application;
 - (ii) the applicant claimed himself as an indigenous villager (IV) of Tai Po Mei. However, his eligibility of Small House grant has yet to be ascertained;
 - (iii) 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;
 - (iv) the Site is not covered by any Modification of Tenancy or Building Licence and an application for Small House grant at the Site has been received;

¹ Among the 62 outstanding Small House applications, 28 of them fall within the “V” zone, 32 straddle or outside the “V” zone and 2 cannot be classified (i.e. Small House plans of 2 sites have not been provided by the applicants and the locations of such Small Houses are yet to be confirmed by LandsD). For those 32 applications straddling or being outside the “V” zone, 8 of them have obtained valid planning approval from the Board.

- (v) if and after planning approval has been given 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;
- (vi) the Site falls entirely within the village ‘environs’ (‘VE’) of Lung Mei and Tai Mei Tuk; and
- (vii) 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.

5.3 The following Government departments have no further comments on the review application and maintain their previous views on the s.16 application in Appendix IV of **Annex A**, which are recapitulated as follows:

Traffic

5.3.1 Comments of the Commissioner for Transport (C for T):

- (a) in general, she 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, the application only involves development of a Small House. She considers that the application can be tolerated unless it is rejected on other grounds.

Nature Conservation

5.3.2 Comments of the Director of Agriculture, Fisheries & Conservation (DAFC):

- (a) no strong view on the application from nature conservation point of view; and
- (b) the Site is largely paved. The applicant claimed that the proposed Small House would not encroach upon the adjoining pond.

Environment

5.3.3 Comments of the Director of Environmental Protection (DEP):

- (a) the Site falls within “GB” zone and outside the water gathering

grounds (WGG);

- (b) he has no objection to the application provided that the applicant will connect the proposed Small House to the public sewer which is 41m away from the sewer manhole at Tai Mei Tuk Village with sewerage capacity available; and
- (c) Drainage Services Department (DSD)'s advice should be sought on the technical feasibility of sewer connection. Written consents shall be obtained from the adjacent lot owners for laying and maintaining sewage pipes, if required. Adequate land space within the Site shall be reserved for connection of the proposed Small House to the public sewer. The cost of sewer connection shall be borne by the applicant.

Water Supply

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

- (a) no objection to the application;
- (b) if diversion is required, existing water mains inside the lot are needed to be diverted outside the Site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be done by the applicant and the applicant shall submit all relevant proposals to WSD for consideration and agreement before the works commence;
- (c) if diversion is not required, the following conditions shall apply:
 - (i) no development which requires resiting of water mains will be allowed;
 - (ii) details of site formation works shall be submitted to the Water Authority for approval prior to commencement of works;
 - (iii) no structures shall be built or materials stored within 1.5m from the centre lines of water mains. Free access shall be made available at all times for staff of WSD or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iv) no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water mains. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the Director of Water Supplies. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
 - (v) no planting or obstruction of any kind except turfing shall be

permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and

- (vi) tree planting may be prohibited in the event that the Water Authority considers that there is any likelihood of damage being caused to water mains; 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.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas;
- (c) there is no existing DSD maintained public drain available for connection in the area. The applicant should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding of the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of the boundary wall/fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage 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;
- (d) public sewers are available for connection in the vicinity of the Site. The applicant should be reminded to follow the established procedures and requirements for connecting sewers from the Site to the public sewerage system. A connection proposal should be submitted for approval beforehand. Moreover, the sewerage connection will be subject to DSD's technical audit, for which an audit fee will be charged; and

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

Landscape

5.3.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) has reservation on the application from the landscape planning perspective;
- (b) the Site is vacant and hard-paved. No existing tree is found within the Site;
- (c) it is noted that vegetation clearance had been carried out gradually within the Site and its immediate surroundings since 2011 (**Plans R-3a and R-3b**). The proposed development, if approved, would encourage similar site modification prior to approval. In addition, approval of the application would encourage similar developments resulting in further encroachment to the “GB” zone. The cumulative effect of approving such applications would result in degradation of landscape character and is against the planning intention of “GB” zone; and
- (d) should the application be approved, in view that there is no adequate space for meaningful landscaping to benefit the public realm, no landscape condition can be imposed.

Fire Safety

5.3.7 Comments of the Director of Fire Services (D of FS):

- (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.

Electricity Supply

5.3.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the application from electricity supply safety aspect; and
- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any

underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

5.4 The following Government departments maintain their previous views of having no comment on the review application:

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

6. Public Comments Received During Statutory Publication Period

6.1 On 29.3.2019 and 24.5.2019, the review application and written representation were published for public inspection. During the first three weeks of the statutory public inspection periods, 10 public comments were received from World Wide Fund for Nature Hong Kong (which has submitted two sets of comments), the Indigenous Inhabitant Representative (IIR) of Tai Mei Tuk, three local groups (大埔友，關注八仙湖人士 and 生態守護者) and other individuals raising objection to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; being incompatible with the surrounding area; polluting the adjoining ponds; setting an undesirable precedent; and causing adverse air quality, landscape, ecological, environmental and sewage impacts (**Annex F**).

6.2 Seven public comments, all objecting to the application, received at the s.16 application stage are set out in paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

7.1 The subject application for Small House development was rejected by the RNTPC on 22.2.2019 mainly on the grounds of being not in line with the planning intention of the “GB” zone; and land was still available within the “V” zone of Lung Mei and Tai Mei Tuk for Small House development.

7.2 To support the review application, the applicant has put forward justifications that the land available in the “V” zone for Small House development is overestimated; vacant Government land in the “V” zone is not available for Small House development; the Site is close to the existing village cluster and adjacent to similar approved applications; and no adverse impact arising from the proposed development is expected.

7.3 The Site falls entirely within the “GB” zone on the OZP (**Plan R-2a**). The proposed Small House development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limit of urban and sub-urban development areas by

natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. DAFC has no strong view on the application from nature conservation point of view given that the Site is largely paved and the proposed Small House would not encroach upon the adjoining pond. However, CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as vegetation clearance had been carried out gradually within the Site and its immediate surroundings since 2011 (**Plans R-3a and R-3b**). The proposed development, if approved, would encourage similar site modification prior to approval. In addition, approval of the application would encourage similar developments resulting in further encroachment onto the “GB” zone. The cumulative effect of approving such applications would result in degradation of landscape character and against the planning intention of “GB” zone.

- 7.4 The Site is currently vacant and partly hard-paved. The proposed Small House is not incompatible with the surrounding area predominantly rural in character comprising of scattered tree groups, woodland patches and village houses (**Plans R-2a and R-3b**). CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as stated in paragraph 7.3 above. C for T in general has reservation on the application but considers that the application, which only involves development of a Small House, can be tolerated unless it is rejected on other grounds. Other relevant Government departments including DEP, CE/MN and CE/CM of DSD and CE/C of WSD have no objection to or adverse comment on the review application.
- 7.5 In the review application, the applicant argues that some of the available land within the “V” zone as estimated by PlanD are not suitable for Small House development as they comprise access roads (Sites 1 to 5 on **Drawings R-1 and R-3 to R-6**), gardens/landscaping area/open space (Sites 5 to 16 and 20 to 22 on **Drawings R-1, R-2 and R-4 to R-6**), car parking areas (Sites 3 and 17 to 19 on **Drawings R-1 to R-3**) and non-building area along Ting Kok Road required by relevant Government departments (Sites 23 and 24 on **Drawings R-5 and R-6**). It should be noted that in estimating the land available for Small House development in “V” zone, PlanD has adopted a consistent approach and would make use of the latest available information. In general, the land occupied by road, existing and approved village houses, steep slope, major tree clusters and stream buffer will be deducted from the area available for Small House development. Land ownership is not a material consideration as it could be subject to change and land parcel could be subdivided to suit development needs. For land currently being occupied by internal access/informal access, private gardens of local villagers, car parking areas, or other temporary uses (Sites 1 to 9 and 11 to 22 on **Plans R-5a to R-5f**), they will be included as a source of land supply. Regarding the non-building area along Ting Kok Road (Sites 23 and 24 on **Plan R-5f**), the area can be used for circulation space, local open space and other necessary supporting facilities which has been taken into account in the uniform rate of 40 houses per hectare adopted by the PlanD in the estimation of Small House sites within the “V” zone. Site 10 (**Plan R-2b**) is excluded from land available for Small House development under the review application as Small House grant applications adjacent to the site has been approved to make this piece of land too small for Small House development.
- 7.6 Besides, the applicant states that as LandsD would not process the Small House applications for private treaty grants or land exchange in accordance with the High Court Judgement of the Judicial Review on the Small House Policy, the Government

land in the “V” zone should not be counted as available land for Small House development. It should be noted that the said High Court Judgement relates to the Small House Policy implemented by LandsD, the judgement does not affect the Board’s functions under the Town Planning Ordinance (Cap 131) (TPO). Pursuant to section 16 of the TPO, the Board shall consider applications for planning permission for Small House development, and decide whether to grant or refuse planning permission taking into account the relevant planning considerations.

- 7.7 Regarding the Interim Criteria (Appendix II of **Annex A**), more than 50% of the proposed Small House footprint falls within the ‘VE’ of Lung Mei and Tai Mei Tuk (**Plan R-1**). Based on the latest estimate by the PlanD, about 1.84 ha of land (equivalent to about 73 Small House sites) are available within the “V” zone of Lung Mei and Tai Mei Tuk (**Plan R-2b**). Although land available within “V” zone cannot fully meet the future demand of 309 Small Houses (equivalent to about 7.73 ha of land), it is still capable to meet the 62² outstanding Small House applications. Under 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 within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. There is no significant change in planning circumstances since the application was rejected by the RNTPC, and there is no strong reason to depart from the RNTPC’s previous decision.
- 7.8 The applicant points out that the Site is located adjacent to an approved application for Small House development (No. A/NE-TK/545) and close to the existing village cluster (about 23m away from the nearest existing village house). On this point, it should be noted that the site of the approved application (No. A/NE-TK/545) fell partly within the “V” zone and the application was approved on 17.4.2015 before the adoption of a more cautious approach by the Board. The applicant also states that there are similar approved planning applications (No. A/NE-TK/573 and 585) for Small House in the vicinity of the Site. The sites under these planning applications were located to the northwest of the Site and fell entirely within “GB” zone. They were approved by the RNTPC in 2016 mainly on the considerations that the proposed houses were located in close proximity to the existing village cluster and no adverse impact on the surrounding areas was expected. It should be noted that the site of application No. A/NE-TK/573 was surrounded by village houses to the south and west, ‘VE’ of Lung Mei and Tai Mei Tuk to the north and a steep slope to the east. The scope of extending the village to the “GB” zone to the further north and east is limited. Application No. A/NE-TK/585 was considered as an infill development as the site was located between the approved application No. A/NE-TK/573 and the existing village cluster (**Plan R-2a**). For this review application, while the Site is also located close to the existing village cluster, approval of the application would encourage similar site modification prior to approval and would encourage similar developments resulting in further encroachment onto the “GB” zone. The planning circumstances of the review application are different from the approved planning applications mentioned above.

² Among the 62 outstanding Small House applications, 35 of them are located on Government land of which 20 are in Tak Mei Tuk and 15 in Lung Mei.

- 7.9 As shown on **Plan R-2a**, there are 19 similar applications in close vicinity of the Site. A total of 11 applications (No. A/NE-TK/177, 179, 204, 294, 419, 449, 521, 522, 531, 540 and 545) were approved with conditions between 2004 and April 2015 before a more cautious approach in approving applications for Small House development was adopted by the Board in August 2015. After the adoption of a more cautious approach, four applications were approved from 2016 to 2018 mainly on sympathetic considerations. Whilst the sites of Applications No. A/NE-TK/582 and 654 were the subjects of previous approvals, applications No. A/NE-TK/573 and 585 were approved based on the considerations detailed in paragraph 7.8 above. For the remaining four applications (No. A/NE-TK/401, 577, 622 and 635), they were rejected by the RNTPC or the Board on review between 2012 and 2018 mainly for the reasons of not being in line with the planning intention of the “GB” zone; not complying with the Interim Criteria and TPB PG-No. 10 in view of adverse landscape and geotechnical impacts on the surrounding areas; and/or land still being available within the “V” zone for Small House development. The current application is similar to the above rejected cases in terms of not being in line with the planning intention of the “GB” zone and land still being available within the “V” zone for Small House development.
- 7.10 Regarding the public comments objecting to the review application as mentioned 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 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 “Green Belt” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from this planning intention; and
 - (b) land is still available within the “Village Type Development” (“V”) zone of Lung Mei and Tai Mei Tuk which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 8.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid until **9.8.2022**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission and implementation of sewerage proposal to the satisfaction of the Director of Drainage Services 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 reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 9.3 Alternatively, 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.

10. Attachments

Drawings R-1 to R-6	Locations of available land proposed by PlanD not suitable for Small House development as identified by the applicant
Plan R-1	Location plan
Plan R-2a	Site plan
Plan R-2b	Estimated amount of land available for Small House development within "V" zone
Plans R-3a and R-3b	Aerial photos
Plan R-4	Site photo
Plans R-5a to R-5f	Photos showing available land proposed by PlanD not suitable for Small House development claimed by the applicant
Annex A	RNTPC Paper No. A/NE-TK/663
Annex B	Extract of minutes of the RNTPC meeting held on 22.2.2019
Annex C	Secretary of the Town Planning Board's letter dated 8.3.2019
Annex D1	Letter received on 19.3.2019 from the applicant's representative applying for a review of the RNTPC's decision
Annex D2	Written representation submitted by the applicant's representative received on 14.5.2019
Annex E	Similar Applications
Annex F	Public Comments
Annex G	Recommended Advisory Clauses

**PLANNING DEPARTMENT
AUGUST 2019**