

REVIEW OF APPLICATIONS NO. A/NE-SSH/127 and A/NE-SSH/128
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed House (New Territories Exempted House - Small House) and Minor Relaxation of
Gross Floor Area (GFA) Restrictions
Various lots in D.D.218, Che Ha Village, Shap Sz Heung, Sai Kung North**

1. Background

- 1.1 On 6.3.2019, the following applicants sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) at each of the application sites (the Sites) under s.16 of the Town Planning Ordinance (the Ordinance), with minor relaxation of GFA restrictions for the “Comprehensive Development Area” (“CDA”) zone.

Application No.	Applicant	Site Area	Zoning	
A/NE-SSH/127	Mr. LEE Keng Wai	77.7m ²	“CDA”	
A/NE-SSH/128	Mr. LEE Keng Ying	136.5m ²	“CDA” (89%)	“Village Type Development” (“V”) (11%)

- 1.2 On 3.5.2019, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the applications and the reasons were:

- (a) the proposed development did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha; and
- (b) land was still available within the “V” zone of Che Ha which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

- 1.3 For Members’ reference, the following documents are attached:

- (a) RNTPC Paper No. A/NE-SSH/127 (Annex A1)
- (b) RNTPC Paper No. A/NE-SSH/128 (Annex A2)
- (c) Extract of minutes of the RNTPC meeting held on 3.5.2019 (Annex B)
- (d) Secretary of the Board’s letter on A/NE-SSH/127 dated 17.5.2019 (Annex C1)

- (e) Secretary of the Board's letter on A/NE-SSH/128 dated 17.5.2019 (Annex C2)

2. Application for Review

On 4.6.2019, the applicants, both represented by Mr. HUNG Shu-ping, applied under section 17(1) of the Ordinance for review of the RNTPC's decisions to reject the applications (Annex D).

3. Justifications from the Applicant

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

- (a) the Sites are the subjects of two previous planning applications No. A/NE-SSH/96 and 97, which were approved on 10.4.2015. Knowing of the planning approvals, the applicants of the current applications, being indigenous villagers of Ping Chau Chau Mei Village, bought the Sites from the original applicants to build Small Houses;
- (b) due to the change in landownership, the applicants need to submit fresh applications to the District Lands Office/Tai Po for Small House development on the Sites, the processing of which would unlikely be completed before expiry of the previous planning approvals on 11.4.2019. The applicants had tried to submit applications to the Board on 23.1.2019 for extending the time for commencement of the previously approved developments, which however, were not accepted as they were not submitted by the original applicants. The applicants then submitted the current applications on 20.2.2019 to the Board for fresh approvals;
- (c) it was only at a very late stage that the applicants were aware that the applications for extending the time for commencement could be processed with authorization by the original applicants. Due to the shortage of time, the applicants were unable to obtain the authorization before expiry of the previous approvals, and have to proceed with applying for fresh ones;
- (d) there are no grounds for the objections raised by the commenters on the applications. The concerns raised by some of them on possible blockage to their houses can be resolved through negotiation with the applicants. The objection raised under the name of Che Ha Village Office was in fact not raised by the Village Office;
- (e) although there is still land available within the "V" zone of Che Ha for Small House development, majority of the land is owned by a single private developer;

- (f) as the applications are for minor relaxation of GFA restriction, no technical assessments have been submitted. It is in line with the practice adopted in the previous applications No. A/NE-SSH/96 and 97; and
- (g) other than the change of land ownership, there is no change in planning circumstances since the approval of the previous applications. The previous planning approvals should be extended to the current applications.

4. The Section 16 Applications

The Sites and Their Surrounding Areas (**Plans R-1, R-2a and R-5c**, and photos on **Plans R-3 and R-4**)

- 4.1 The situation of the Sites and their surrounding areas at the time of consideration of the s.16 applications by the RNTPC were described in paragraphs 9.1 and 9.2 of **Annexes A1 and A2**. There has been no material change of the situation since then.
- 4.2 The Sites are:
 - (a) adjacent to the eastern edge of the Che Ha village proper and entirely within the 'VE' of Che Ha;
 - (b) generally flat, vacant and paved; and
 - (c) accessible by a vehicular track leading to Sai Sha Road.
- 4.3 The surrounding areas are generally rural in nature with village houses and scattered tree groups. A section of Tai Tung Wo Liu Stream runs at about 22 metres from the east of the Sites. About 50 metres to the east of the Sites is an existing golf driving range.

Planning Intentions

For Applications No. A/NE-SSH/127 and 128

- 4.4 The planning intention of the "CDA" is for comprehensive development of the area for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

For Application No. A/NE-SSH/128 only

- 4.5 The planning intention of the "V" zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development

within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

Background of the Comprehensive Development in the “CDA” zone

- 4.6 The background of the comprehensive development in the “CDA” zone at the time of the consideration of the s.16 applications was described in paragraph 3 of **Annexes A1 and A2**. There has been no material change of the background since then.
- 4.7 The “CDA” zone covering the Sites comprises three parcels of land near Che Ha, Tseng Tau and Tai Tung Wo Liu Villages, which are identified to be suitable for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities under the OZP.
- 4.8 There have been 12 applications for comprehensive residential, commercial and recreational development with Government, Institution and Community facilities in the “CDA” zone approved between 1995 and 2019. Except two applications (No. A/NE-SSH/61 and 120), the planning permissions for other 10 applications were lapsed and no longer valid.
- 4.9 Application No. A/NE-SSH/61 was approved with conditions on 8.5.2009. The building plans for the scheme were approved by the Building Authority in 2016 and 2017, and the land exchange was executed in 2017¹. The scheme is deemed to have commenced. The approved MLP is at **Plan A-5a** of **Annexes A1 and A2** and **Plan R-5a**.
- 4.10 The latest application No. A/NE-SSH/120 was approved by the RNTPC on 18.1.2019, with a minor relaxation of the restrictions on domestic GFA (+20%), commercial GFA (+30%) and residents’ club GFA (+50%). The approved MLP is at **Plan A-5b** of **Annex A1 and A2** and **Plan R-5b**.
- 4.11 The proposed Small Houses under the current applications are located at the fringe of the North Plain Site of the comprehensive development and annotated as “land to be secured by the applicant” under the MLPs (**Plans A-5a** and **A-5b** of **Annexes A1 and A2** and **Plans R-5a** and **R-5b**). No specific use or development was proposed for the Sites.

Assessment Criteria

- 4.12 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,

¹ The Sites are not included in the land exchange as they have not been acquired by the applicant of the comprehensive development. According to the approved schemes, a domestic GFA of 12,641m² (under Application No. A/NE-SSH/61) or 15,170m² (under Application No. A/NE-SSH/120) is reserved as ‘Phase 2’ of the comprehensive development to uphold the development right of the owners of private land not yet secured by the applicant of the comprehensive development.

21.3.2003 and 7.9.2007. The latest set of Interim Criteria promulgated on 7.9.2007 is at Appendix II of **Annexes A1** and **A2**.

Previous Applications

- 4.13 Besides the applications for comprehensive development mentioned in paragraphs 4.6 – 4.11 above, the Sites are also subject of previous applications (No. A/NE-SSH/96 and A/NE-SSH/97) both for NTEH (Small House) use submitted by different applicants.
- 4.14 Application No. A/NE-SSH/96 covered the same site of A/NE-SSH/127 and an additional 19m² of Government land. It was rejected by the RNTPC on 14.11.2014 for reasons of being not in line with the planning intention of the “CDA” zone as the Government land within the application site would be included in the regrant lot under land exchange for the approved comprehensive development; not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand; and the setting of an undesirable precedent for other similar developments to proliferate into the “CDA” zone. It was subsequently approved by the Board on review on 10.4.2015 mainly on sympathetic consideration that the proposed Small House would involve a relatively small area at the fringe of the “CDA” zone, which was not incompatible with the approved comprehensive development and would not have significant impact on the overall implementation of the development.
- 4.15 Application No. A/NE-SSH/97 covered exactly the same site of A/NE-SSH/128, which was also rejected by the RNTPC on 14.11.2014, for reasons of not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand and the setting of an undesirable precedent for other similar developments to proliferate into the “CDA” zone. The case was subsequently approved by the Board on review on 10.4.2015, based on the same sympathetic consideration as Application No. A/NE-SSH/96.
- 4.16 Details of these previous applications are summarized at **Appendix IV** of **Annexes A1** and **A2** and their locations are shown on **Plan R-2a**.

Similar Application

- 4.17 When the s.16 applications were considered by the RNTPC on 3.5.2019, there was one similar application (No. A/NE-SSH/52) in the vicinity of the Sites since the first promulgation of the Interim Criteria on 24.11.2000. There has been no change in the number of similar applications since then.
- 4.18 Application No. A/NE-SSH/52 was approved with conditions by the RNTPC on 3.3.2006 mainly on the consideration that it generally complied with the Interim Criteria; the proposed Small House would not jeopardise the implementation of the comprehensive development as the site was located outside the land exchange boundary; and there was general shortage of land in

the “V” zone in meeting the then estimated future demand for Small House development.

- 4.19 Details of this application is summarized at **Appendix V** with the location shown on **Plans A-1 and A-2a** of **Annexes A1** and **A2**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the s.16 applications made by relevant Government departments are stated in paragraph 11 and Appendix VI of **Annexes A1** and **A2**.
- 5.2 For the review applications, relevant Government departments have been further 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 latest number of outstanding Small House applications for Che Ha is 17 (the figure was 16 at the s.16 application stage) whilst the 10-year demand remains unchanged at 30; and
- (b) he maintains his other previous views on the s.16 applications as stated in paragraph 1 of the Appendix VI in **Annexes A1** and **A2** which are recapitulated below:
 - (i) no objection to the applications;
 - (ii) the applicants are indigenous villagers of Ping Chau Chau Mei Village of Sai Kung North as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, but their eligibility of Small House grant has yet to be ascertained;
 - (iii) the Sites are not covered by Modification of Tenancy or Building Licence;
 - (iv) the subject lots are held under Block Government Leases demised for agricultural use. Small House applications by the way of Building Licences submitted by the same applicants for the Sites in May 2017 are still under processing;
 - (v) for Application No. A/NE-SSH/127, if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure Deed of Grant for construction and future maintenance of the said system. Such deed must be

prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;

- (vi) for Application No. A/NE-SSH/128, the proposed septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218. His office has no comment on it;
- (vii) if and after planning approval has been given by the Board, his office 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 approvals will be subject to such terms and conditions as may be imposed by LandsD. Please also note that there is no guarantee to the grant of a right of way to the Small Houses concerned or approval of the emergency vehicular access thereto; and
- (viii) the Sites entirely falls within the village environs of Che Ha Village.

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

Traffic

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

- (a) no in-principle objection; and
- (b) the existing village access on and near the application sites are not under Transport Department's management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Environment

5.3.2 Comments of Director of Environmental Protection (DEP):

- (a) no objection to the applications;
- (b) in view of the small scale of the proposed developments, the applications alone are unlikely to cause major pollution;

- (c) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department (EPD)” and are duly certified by an Authorized Person (AP); and
- (d) based on the information provided, no objection from chlorine risk point of view for the applications falling within the Consultation Zone of Ma On Shan Water Treatment Works.

Drainage

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

- (a) there is no existing public drain maintained by DSD available for connection in this area;
- (b) if the applications are approved, a condition should be included to request the applicants to submit and implement the drainage proposal for the Sites to satisfaction of Director of Drainage Services to ensure that they will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
- (c) the proposed houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and their uphill overland flow. The applicants/owners are required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants/owners shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicants should note that they should design the drainage proposal based on the actual site condition for DSD’s comment/agreement. In the design, the applicants should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicants/owners should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed Small Houses;

- (e) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed developments and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
- (f) there is no existing public sewerage available in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the house and the provision of septic tank;
- (g) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners at their expense;
- (h) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought; and
- (i) the lot owners/developers should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owners/developers would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

5.3.4 Comments of Chief Engineer/Consultants Management, Drainage Services Department (CE/MN, DSD):

the proposed Small House applications have no conflict with the “Tolo Harbour Sewerage of Unsewered Areas Stage 2” works in Che Ha. Hence, his office has no comment on the applications.

Water Supply

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

- (a) no objection to the applications; and
- (b) for provision of fresh water supply to the development, the applicants may need to extend his inside services to the nearest suitable government water mains for connection. The applicants 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 the WSD's standards.

Fire Safety

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

- (a) no in-principle objection to the applications; and
- (b) the applicants are reminded to observe the '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 Safety

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

he has no particular comment on the applications from electricity supply safety aspect. However, 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 or overhead line under the mentioned applications should approach the electricity supplier (i.e. CLP Power) 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 and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "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.

Landscape

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

- (a) no objection to the applications;
- (b) the Sites are situated to the east of Che Ha Village which is in an area of rural landscape character comprising scattered tree groups and village houses. Given similar Small Houses are found in close proximity to the Sites, the applications are not incompatible with the surrounding environment;

- (c) the Sites are vacant and covered with gravels. No existing tree is found within the Sites. Adverse impact arising from the proposed development on significant landscape resources within the Sites is not anticipated; and
- (d) since there is no adequate space for meaningful landscaping within the Sites to benefit the public realm, should the Board approve the applications, no condition for submission and implementation of landscaping proposal is recommended.

Nature Conservation

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

the Sites are hard paved and currently used as car park. Although the Site of Application No. A/NE-SSH/127 encroaches onto the fringe of the ecological buffer zone under the approved comprehensive development in the “CDA” zone, it is the subject of previously approved planning permission. He has no strong view on the applications.

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

- (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 Received During Statutory Publication Periods

- 6.1 On 14.6.2019, the review applications were published for public inspection. During the first three weeks of the statutory public inspection periods, three public comments were received from the Che Ha Village Village Committee (VC), Designing Hong Kong Limited and an individual (**Annex E**). Che Ha Village VC supports the applications. Designing Hong Kong Limited and the individual object to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of “CDA” zone, land is still available within the “V” zone of Che Ha Village for Small House development, the proposed relaxation of GFA violates the criteria of NTEH/ Small House development; and the approval of the applications would set an undesirable precedent for similar applications.

- 6.2 Five public comments were received at the s.16 application stage and are set out in paragraph 12 of the RNTPC Papers in **Annex A1** and **Annex A2**.

7. Planning Considerations and Assessments

- 7.1 The subject applications for Small House development were rejected by the RNTPC on 3.5.2019 mainly on the grounds of not complying with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha; and it was more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 7.2 To support the review applications, the applicants have put forward justifications that the Sites are subjects of previous planning approvals, there was insufficient time to obtain the previous applicants’ authorisation to apply for extension of time for commencement of the approved developments; there are no grounds for the objections raised by commenters on the applications; and the majority of the land available within the “V” zone of Che Ha for Small House development is owned by a single private developer.

Land Available for Small House Development

- 7.3 The applicants claim that although there is still land available within the “V” zone in Che Ha for Small House development, majority of the land is owned by a single private developer. In this regard, 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 2.17 ha of land (equivalent to about 86 Small House sites) are available within the “V” zone of the Che Ha Village (**Plan R-2b**), which is sufficient to fully meet the total estimated Small House demand (i.e. 47 Small Houses) taking into account the number of outstanding Small House applications (i.e. 17 Small Houses) and the 10-year demand forecast (i.e. 30 Small Houses). The applications do not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha.
- 7.4 Furthermore, it should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, 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 application under processing by LandsD. If the land available for Small House development in the “V” zone is sufficient to meet the number of outstanding Small Housing applications, the Board is of the view that it is 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, even though the total estimated Small House demand is unmet. For the current applications, the land available for Small House development is sufficient to meet not only the number of outstanding applications but also the 10-year demand forecast.

Previous Planning Approvals

- 7.5 The two planning approvals for Small House development on the Sites as mentioned by the applicants (Applications No. A/NE-SSH/96 and 97) were both granted by the Board on review on 10.4.2015 to two applicants different from those under the current applications. The applications were approved by the Board mainly on sympathetic consideration that the proposed Small Houses, involving only relatively small area at the fringe of the “CDA” zone, were not incompatible with the approved comprehensive development and would not have significant impact on the overall implementation of the development.
- 7.6 According to the Interim Criteria (d) (**Appendix II of Annexes A1 and A2**), application with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the Criteria would normally not be allowed. Sympathetic consideration may be given if there are special circumstances such as the site is an infill site among existing Small Houses or processing of the Small House grant is already at an advance stage. For the current applications, no such special circumstances are applicable. It should also be noted that the previous approvals were granted to different applicants. The current applicants acquired the Site in April 2017 after the previous approvals were given. Their applications for Small House grants, submitted to LandsD in May 2017, are still under processing.

Implication on the Approved Comprehensive Development

- 7.7 The Sites occupy a total area of about 214.2m², which is about 0.04% of the development site area of the approved schemes under Applications No. A/NE-SSH/61 and No. A/NE-SSH/120 (both about 65 ha). They are located at the fringe of the approved schemes and are annotated as “land to be secured by applicant” under the MLP of both schemes. No specific use or development is designated on the Sites. Furthermore, they are not included in the regrant lot under the land exchange executed in 2017 for the approved comprehensive development scheme. The proposed Small House developments will unlikely jeopardise the implementation of the approved comprehensive development.

Land Use Compatibility

- 7.8 The Sites are located adjacent to the eastern edge of Che Ha Village proper, and the surrounding areas are generally rural in nature. The part of the approved comprehensive development in the vicinity of the Site is mainly designated for conserved woodlands, landscaped areas and golf driving range (for Application No. A/NE-SSH/120) or landscaped area and golf course (for Application No. A/NE-SSH/61). The proposed Small Houses under the current applications are considered compatible with the character of the surrounding environment. Relevant Government departments consulted including DEP, DAFC, C for T, CE/C of WSD, CE/MN of DSD and CTP/UD&L of PlanD have no in-principle objection nor adverse comments on the application.

Other Similar Application

- 7.9 There was one similar application (No. A/NE-SSH/52) approved in the vicinity of the Site on 3.3.2006. It was approved by the RNTPC mainly on the consideration that the application, involving a site with 87% of area falling within the “V” zone, was generally in compliance with the Interim Criteria and there was a general shortage of land in the “V” zone to meet the estimated Small House demand at the time of consideration. In comparison, Application A/NE-SSH/127 falls entirely within the “CDA” zone and Application No. A/NE-SSH/128 has only about 11% of the Site falling within “V” zone and there are sufficient land available in the “V” zone to meet the currently estimated Small House demand. Therefore, the planning circumstances of that approved application are not similar to the current applications.

Application for Extension of Time for Commencement of the Approved Development

- 7.10 In relation to the applicants’ claim regarding the shortage of the time for getting the original applicants’ authorization to apply for extending the time for commencement of the approved Small House developments, it should be noted that according to the Town Planning Board Guidelines for Class A and Class B Amendments to Approved Development Proposals (TPB PG-No.36B), extension of time for commencement of development is a Class B amendment under category 18, which requires an application under section 16A(2) of the Town Planning Ordinance, and can only be submitted by the person to whom the permission is granted. In case there is a change in land ownership, the original applicant may appoint the subsequent owner of the site as his/her authorized representative to submit an application for Class B amendments. The guideline is available on the Board’s website for public inspection.

Public comments

- 7.11 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 Small House development does not comply with the Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha; and

- (b) land is still available within the “V” zone of Che Ha which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

8.2 Alternatively, should the Board decide to approve the review applications, it is suggested that the permissions shall be valid until **23.8.2023**, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permission are renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the provision of septic tank, as proposed by the applicants, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

9. Decision Sought

- 9.1 The Board is invited to consider the applications for review of the RNTPC’s decisions 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

- Plan R-1** Location plan
- Plan R-2a** Site plan
- Plan R-2b** Estimated amount of land available for Small House development within “V” zone
- Plan R-3** Aerial photo
- Plan R-4** Site photos

Plan R-5a	Location of the Site as shown on the approved MLP for the comprehensive development under Application No. A/NE-SSH/61-1
Plan R-5b	Location of the Site as shown on the approved MLP for the comprehensive development under application No. A/NE-SSH/120
Plan R-5c	Location of the ecological buffer zone for Tai Tung Wo Liu Stream on the approved MLP for the comprehensive development under Application No. A/NE-SSH/120
Annex A1	RNTPC Paper No. A/NE-SSH/127
Annex A2	RNTPC Paper No. A/NE-SSH/128
Annex B	Extract of minutes of the RNTPC meeting held on 3.5.2019
Annex C1	Secretary of the Board's letter on A/NE-SSH/127 dated 17.5.2019
Annex C2	Secretary of the Board's letter on A/NE-SSH/128 dated 17.5.2019
Annex D	Letter received by the Board on 4.6.2019 from the applicants' representative applying for a review of the RNTPC's decisions
Annex E	Public Comments
Annex F	Recommended Advisory Clauses

PLANNING DEPARTMENT
AUGUST 2019