

TPB Paper No. 10633  
For Consideration by  
The Town Planning Board  
on 27.322.5.2020

**REVIEW OF APPLICATION NO. A/TP/662**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House - Small House)  
in “Green Belt” Zone  
Lots 83 S.C RP and 470 S.D in D.D. 21, San Uk Ka Village, Tai Po, N.T.**

**1. Background**

- 1.1 On 22.1.2019, the applicant, Mr. CHANG Kam Lun represented by Mr. LAU Chee Sing, sought planning permission to build a house (New Territories Exempted House (NTEH) - Small House) at the application site (the Site) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Green Belt” (“GB”) on the approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28 (**Plan R-1**).
- 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 application and the reasons were:
- (a) the proposed development is not in line with the planning intention of “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 to justify a departure from the planning intention;
  - (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape, and the applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas;
  - (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas; and
  - (d) land is still available within the “Village Type Development” (“V”) zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

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

- |     |   |           |
|-----|---|-----------|
| (a) | RNTPC Paper No. A/TP/662                                  | (Annex A) |
| (b) | Extract of minutes of the RNTPC meeting held on 3.5.2019  | (Annex B) |
| (c) | Secretary of Town Planning Board's letter dated 17.5.2019 | (Annex C) |

1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 28.2.2020 for consideration of the review application has been rescheduled, and the Board has agreed to adjourn consideration of the application. The review application is now scheduled for consideration by the Board at this meeting.

## 2. Application for Review

On 6.6.2019, the applicant's representative wrote to the Board to apply under section 17(1) of the Ordinance for a review of the RNTPC's decision to reject the application (**Annex D1**). A written representation submitted by the applicant's representative in support of the review application, further information (FI) providing a Landscape Impact Assessment (LIA) report and justifications for the review application, and FI providing response to public comments were received by the Board on 18.10.2019, 13.12.2019 and 11.2.2020 respectively (**Annexes D2, D3 and D4**).

## 3. Justifications from the Applicant

The justifications put forth by the applicant in support of the review application are detailed in his submissions at **Annexes D2, D3 and D4**. They can be summarised as follows:

- (a) to address the concerns of RNTPC Members during the s.16 application stage in that the proposed development would encroach onto the vegetated slope posing adverse impact on the natural environment, a LIA report (**Annex D3**) has been submitted. According to the LIA report, the impact of the proposed site formation works for the proposed development will be insignificant as not more than 1.5m of topsoil will be removed. Moreover, all the plants and shrubs identified on the Site were of common species and neither valuable nor significant landscape resources were found within the Site and in its vicinity. The proposed elevated platform of 57mPD with retaining wall of up to 3.5 m high and mass concrete wall along the northern, eastern and western boundaries of the Site will blend in with the existing natural slope along the southern boundary of the Site and a series of stormwater drainage channel will be provided along the site boundary (**Drawings R-1 and R-2**). In view of the above, the applicant considers that the impact of the proposed development on the existing natural vegetation is not significant. In addition, the applicant has proposed mitigation measures such as planting of trees and hydroseeding the southern portion of the Site abutting the vegetated slope (**Drawings R-3 to R-5**). To improve the aesthetic values of the proposed retaining walls, vertical greening is also proposed on the facade of the proposed retaining walls along the northern, eastern and western boundaries of the Site. The LIA concluded that, with the implementation of the proposed landscape planting works, there would be no disruption to the overall landscape character of the area;
- (b) the Site is an infill site close to an existing village cluster and the proposed development is generally in compliance with the relevant assessment criteria in the Interim Criteria. Due consideration should be given to Small House applications located close to the

existing village cluster for an orderly development pattern, as well as for more efficient use of land and provisions of infrastructures and services;

- (c) regarding the RNTPC Members' concerns that approving the application would set an undesirable precedent in particular the two outstanding Small House grant applications adjoining the Site which are under processing by Lands Department, the applicant argues that the submission of these applications is beyond the control of the applicant. Even if planning applications for these two adjoining Small House developments were submitted to the Board, they would be considered based on their individual merits. At most, it is only limited to two more Small House developments even if they are approved by the Board in the future; and
- (d) regarding the public comments received on the review application raising concerns on potential adverse slope stability and drainage impacts, the applicant points out that the submitted Geotechnical Planning Review Report (GPRR) (**Annex D4**) has proposed a retaining wall to stabilise the existing slope. Also, the proposed development will provide a proper drainage discharge system, and any existing surface runoff will be collected and discharged to proper discharge points. The applicant will be responsible for the construction, maintenance of the retaining wall and associated drainage works. Moreover, an Authorised Person (AP) will be appointed to submit the site formation plan in accordance with the site formation extent as shown in the GPRR to the Buildings Department for approval, and the proposed development and its associated site formation works will be strictly confined within the boundary of the Site and will not be further extended to encroach onto the "GB" zone.

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

##### *The Site and its Surrounding Areas (Plans R-1 to 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 been no material change of the situation since then.
- 4.2 The Site is:
  - (a) vacant and covered with groundcovers and young trees of common species;
  - (b) located at the bottom of a slope with some trees and groundcovers on the slope surface;
  - (c) situated to the immediate south of a cluster of village houses; and
  - (d) accessible by a footpath leading to Wun Yiu Road.
- 4.3 The surrounding areas are predominantly rural in character occupied by clusters of village houses and tree groups. To the immediate south is a vegetated slope upon which a platform and village houses (Villa San de Oka III) are built. Existing village houses and a number of approved Small House applications can also be found in the close proximity of the Site.

### Planning Intention

- 4.4 The planning intention of the “GB” zone 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.

### 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. The latest set of Interim Criteria was promulgated on 7.9.2007 and 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 summarised in paragraph 5 of **Annex A**.

### Previous Application

- 4.7 There is no previous application at the Site.

### Similar Applications

- 4.8 When the s.16 application was considered by the RNTPC on 3.5.2019, there were 41 similar applications for Small House development in the vicinity of the Site and within the same “GB” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan R-1**), of which 40 were approved and one was rejected. Since then, two similar applications (No. A/TP/665 and 666) were rejected by the Board on review on 10.1.2020.
- 4.9 Before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015, a total of 39 applications were approved with conditions by the Committee, mainly on the grounds that the proposed development was in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was located within the ‘VE’/“V” zone; there was a general shortage of land in the concerned “V” zone to meet the demand for Small House development at the time of consideration; and/or the application site was the subject of previously approved application.
- 4.10 Application No. A/TP/562 was rejected in 2014 mainly on considerations of being not in line with the planning intention of the “GB” zone; and not complying with TPB-PG No.10 and the Interim Criteria in that the proposed development would involve clearance of existing natural vegetation and affect the stability of the adjacent slope. Subsequently, the same applicant submitted another application (No. A/TP/641) with slight changes in site area and disposition of the proposed Small House and supplemented with a GPRR to address the concerns on slope stability. That application was approved in 2018 mainly on the grounds that the proposed development was generally in line with the TPB-PG No.10 in that it would not cause adverse geotechnical

impact; and was in close proximity to existing Small Houses and a cluster of approved Small House applications.

- 4.11 Applications No. A/TP/665 and 666 were rejected by the Board on review on 10.1.2020 mainly for the reasons that the proposed development was not in line with the planning intention of the “GB” zone; and land was still available within the “V” zone of the villages concerned which was primarily intended for Small House development.
- 4.12 Details of the above applications are summarized in **Annex E** and their locations are shown on **Plans R-1** and **R-2a**.

## **5. Comments from Relevant Government Departments**

- 5.1 Comments on the s.16 application made by relevant Government departments are stated in paragraph 10 and Appendix IV of **Annex A**.
- 5.2 For the review application, the 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 updated number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu is 41 (which was 44 at the s.16 application stage), whilst the 10-year Small House demand forecast for the villages concerned remains at 274;
  - (b) the proposed site formation level for the proposed Small House in the applicant’s submission has not been endorsed and might be revised subject to comments from the relevant departments; and
  - (c) he maintains his other previous views on the s.16 application which are recapitulated below:
    - (i) no objection to the application;
    - (ii) the applicant is an indigenous villager of Sha Lo Tung Cheung Uk Village of Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village. However, his eligibility of Small House grant has yet to be ascertained;
    - (iii) the Site is held under Block Government Lease demised for agricultural use. It falls entirely within the village ‘environs’ (‘VE’) of San Uk Ka and is not covered by any Modification of Tenancy or Building Licence; and
    - (iv) the Small House application submitted by the same applicant for the Site is still under processing. Should the application be approved by the Board, his office 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.

### Landscape

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

- (a) according to the applicant's FI, the Site is located on a sloping ground with existing ground level varies from 58mPD to 55mPD from south to north. The proposed development would require site formation works to form a platform at 57mPD to merge with the existing slopes to the south and a series of retaining wall and mass concrete wall would be constructed. The site formation works would involve the removal of the existing vegetation and trees. It is noted that the applicant has proposed to provide landscape planting at the southern part of the site and vertical greening over the retaining walls. Adverse landscape impact arising from the proposed development within the Site would be mitigated by the landscape proposal. However, as the Site is close to the edge of existing lush woodland to the south, there is concern that the construction of the proposed Small House would disturb tree roots of existing trees adjoining the Site within the wooded area and hence causing further disturbance to the wooded land. Moreover, encroachment of village houses into the green belt would defeat the purpose of the green belt and has adverse impact on the preservation of the existing wooded area;
- (b) in view of the above, he maintains his reservation on the application from landscape planning perspective and his other previous views on the s.16 application are recapitulated below:
  - (i) the Site is connected with Wun Yiu Road via a paved driveway to the east. Existing village houses are concentrated within the "V" zone with clusters of approved Small House applications within the "GB" zone to the north and south;
  - (ii) the Site is situated in an area of rural landscape character comprising of natural woodland and village houses. Despite a number of similar applications adjacent to the Site being recently approved, and the landscape character of the area is expected to be gradually altered, the proposed development is not in line with the planning intention of "GB" zone; and
  - (iii) the Site is vacant and covered with grasses. Two young *Ficus variegata* (青果榕) and one young *Viaburnum odoratissimum* (珊瑚樹) are recorded within and adjacent to the Site. Moreover, the southern part of the Site is on a sloping ground and the proposed

development would inevitably involve site formation and/or slope works. The existing topography of the concerned “GB” area would therefore be changed irreversibly; and

- (c) should the Board decided to approve the application, an approval condition on submission and implementation of landscaping proposal is recommended to mitigate the landscape impact arising from the proposed development.

Drainage and Sewerage

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

- (a) if the application is approved, the applicant is required to submit and implement a drainage proposal to demonstrate that the proposed development (with all slope and ground drainage improvement works to be carried out upstream and downstream of the Site to such reasonable extent) will not cause any adverse drainage impact to the adjacent area;
- (b) the proposed development is located on unpaved ground and slope area, which will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal;
- (c) if the stormwater drainage system of the proposed development is to be connected to any existing drainage facilities, the applicant shall seek consent from the concerned owners or parties responsible for the maintenance of such facilities and keep DSD informed. The applicant shall also check and ensure that the stormwater drainage system of the proposed development and the existing drainage facilities to be connected to are in good working condition and have adequate capacity to accommodate the surface runoff collected from the Site as well as its upstream catchments;
- (d) the applicant/owner is required to maintain the stormwater drainage system of the proposed development and the existing drainage facilities to be connected to properly and rectify such system/facilities if found inadequate or ineffective during operation. The applicant shall effect subsequent upgrading of the stormwater drainage system for the proposed development and the existing drainage facilities to be connected to whenever necessary;
- (e) the applicant shall take extreme care when working in the vicinity of DSD maintained drainage and sewerage works, if any, in order not to disturb, interfere with or cause damage to them. Any blockage or damage to the said works due to the proposed development shall be made good at the applicant’s cost; and
- (f) he maintains his other previous views on the s.16 application which are recapitulated below:

- (i) no in-principle objection to the application from public drainage viewpoint;
- (ii) the proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and its uphill overland flow. The applicant/owner is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (iii) the applicant should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed Small House. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourses/ ponds/rivers/the top of the embankment should be maintained;
- (iv) there is no existing public sewerage in the vicinity of the Site. DEP should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank; and
- (v) in addition, he has the following general comments/conditions:-
  - the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense;
  - 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;
  - as the proposed development is located on the slope, the stability of the existing slope may be affected. Head of Geotechnical Engineering Office, Civil Engineering and Development Department should be consulted on this aspect; and
  - the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the development 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 owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

Geotechnical Aspect

5.2.4 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) according to the GPRR submitted by the applicant and the applicant's responses to comments at the s.16 application stage, it is noted that the proposed site formation works would involve construction of new retaining walls of not more than 3.5 m high and modification of the existing slope feature No. 7NW-D/C427. The stability of the slope would be assessed at the detailed design stage and, if necessary, the slope would be upgraded to the current safety standards. Also, the work proposal should be submitted to the Building Authority for approval;
- (b) for the future maintenance responsibility of the affected slope, LandsD's advice should be sought; and
- (c) he maintains his other previous views on the s.16 application which are recapitulated below:
  - (i) the Site encroaches on an existing cut slope (feature No. 7NW-D/C427);
  - (ii) he has no comment on the GPRR and FI submitted by the applicant and has no in-principle objection to the application from geotechnical aspect; and
  - (iii) the applicant should be reminded that the proposed works as stated in the GPRR cannot meet the conditions listed in the Practice Note for Authorized Persons and Registered Structural Engineers (PNAP) APP-56 for exemption in respect of site formation works. The applicant should submit the works proposal together with the prescribed plans for site formation works to the Building Authority for approval.

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, he has reservation on the application. Such type of development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications

in the future. The resulting cumulative adverse traffic impact could be substantial; and

- (b) notwithstanding the above, he considers that the application only involving the development of a Small House can be tolerated on traffic grounds.

### Environment

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

- (a) no objection to the application; and
- (b) if the application is approved, the applicant should be advised that the 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" and are duly certified by an Authorized Person.

### Nature Conservation

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

- (a) no strong view on the application; and
- (b) the Site is mostly covered with grass and the proposed Small House may affect some fruit trees.

### Fire Safety

#### 5.3.4 Comments of the Director of Fire Services (D of FS):

- (a) has no comment on the application; and
- (b) the applicant is advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

### Water Supply

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

- (a) no objection to the application; and
- (b) 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 standard.

Electricity Supply Safety

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

- (a) no comment on the application from regulatory services perspective; and
- (b) the parties concerned with the planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application 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 Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the 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.

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

- (a) Chief Highway Engineer/ New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), Civil Engineering and Development Department; and
- (c) District Officer (Tai Po), Home Affairs Department.

**6. Public Comments on the Review Application Received during Statutory Publication Period**

6.1 On 14.6.2019, 1.11.2019 and 20.12.2019, the review application and FIs submitted by the applicant were published for public inspection. During the statutory public inspection periods, a total of 40 public comments were received, of which 22 public comments raised objection to the application and the remaining 18 expressed concerns on the application. All the public comments received are deposited at the meeting for Members' inspection and samples of the comments are attached at **Annex F**.

6.2 A brief summary of the public comments are as follows:

|   | <b>Publication Period</b> | <b>Opposing</b> | <b>Raising concerns</b> | <b>Total</b> |
|---|---------------------------|-----------------|-------------------------|--------------|
| 1 | 14.6.2019 - 5.7.2019      | 2               | 0                       | 2            |
| 2 | 1.11.2019 - 22.11.2019    | 0               | 0                       | 0            |
| 3 | 20.12.2019 - 10.1.2020    | 20              | 18                      | 38           |
|   | <b>Total</b>              | <b>22</b>       | <b>18</b>               | <b>40</b>    |

6.3 The **22 opposing comments** were received from Designing Hong Kong Limited, a Tai Po District Council Member, residents from the nearby cluster of village houses (i.e. Villa San De Oka Phases II and III) and individuals. Main grounds of objection are summarised as follows:

- (a) the proposed development is not in line with the planning intention of “GB” zone ;
- (b) land is still available for Small House developments within the “V” zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu. Village house developments should be located close to the village proper as far as possible to maintain an orderly development pattern, efficient use of land and provision of infrastructure and service. There is no strong justification to approve the application;
- (c) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone and reward the practice of “Destroy First, Develop Later” as the natural vegetation at the Site appears to have been removed without obtaining planning permission;
- (d) the proposed Small House development would cause adverse impact to the natural landscape and result in a loss of “GB” area as it is situated on a vegetated slope inevitably involving site formation/slope works and the existing topography of the area would be irreversibly changed;
- (e) the proposed Small House development is on a steep slope and the proposed site formation works would increase the risk of landslides and flooding, threatening the lives and properties of the surrounding village developments, in particular, the existing residents of Villa San de Oka; and
- (f) the existing one-lane two-way road connecting to the area cannot cope with the existing demand as a result of village developments in the area in recent years. Also, there is only one minibus route serving the area. There is a need to control the number of new village developments and approval should not be granted in view of lack of infrastructure. The existing road should be widened to a two-lane two-way road.

6.4 The remaining **18 public comments** received from New Gem Property Management & Agency Limited (on behalf of Villa San de Oka), the Villa San de Oka Phase II Mutual Aid Committee, residents of Villa San de Oka and individuals have raised concerns on the application should it be approved, which are summarised as follows:

- (a) the proposed development should have a retaining wall to ensure the safety of the nearby residents in Villa San de Oka;
- (b) future maintenance responsibility of the affected slope;
- (c) the drainage and flood prevention measures for the proposed development , and the proposed development should have a functioning drainage system in the future not to increase flooding risk to the nearby residents in Villa San de Oka;
- (d) the future access road to the proposed development should not cause nuisance to the nearby residents; and
- (e) the villagers have been requesting for many years to widen the existing road to a two-lane two-way road as it has already exceeded its capacity, with the problem

of illegal parking and a lack of lay-bys for passing of vehicles. The Government is urged to follow up with the road widening proposal.

- 6.5 At the s.16 application stage, two public comments were received objecting to the application. Their details are set out in paragraph 11 of **Annex A**.

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

- 7.1 The subject application for a proposed Small House at the Site zoned “GB” was considered by the RNTPC on 3.5.2019. Whilst PlanD had no objection to the application mainly on the grounds that the Site was bounded by existing clusters of village houses to the north and south and approved Small House applications to the west forming a new village cluster in the locality, some RNTPC Members considered that approving the application would result in further extension of developments into the “GB” zone and set an undesirable precedent given land was still available within the “V” zone concerned. Furthermore, the proposed development would result in removal of the vegetated slope and pose adverse impact on the natural environment as well as on the integrity of the strip of vegetation (on slope No. 7NW-D/C427) within the “GB” zone. The application was rejected by the RNTPC on the grounds of being not in line with the planning intention of the “GB” zone; not complying with TPB-PG No.10 and the Interim Criteria in that the proposed development would involve clearance of existing natural vegetation; and land being still available within the “V” zone of the villages concerned.
- 7.2 In support of the review application, the applicant has submitted a Landscape Impact Assessment (LIA) report. The applicant refers to the LIA’s conclusion that, with the implementation of the proposed landscape planting works, there would be no disruption to the overall landscape character of the area. The applicant highlights that notwithstanding the RNTPC’s concern on the adverse landscape impact on the surrounding areas as a result of the site formation/slope works associated with the proposed Small House development, the LIA report states that the Site is only covered by trees of common species without valuable or significant landscape resources and the landscape impact arising from the proposed development will be insignificant. Moreover, trees will be planted at the southern portion of the Site and vertical greening will be provided on the facades of the proposed retaining walls along the other three sides of the Site (**Drawings R-3 to R-5**).
- 7.3 On the landscaping aspect, whilst DAFC has no strong view on the review application, CTP/UD&L of PlanD maintains reservation on the application from landscape planning perspective as the encroachment of village houses into the “GB” zone would defeat the purpose of the green belt and has adverse impact on the preservation of the existing wooded area. Although the applicant has proposed to provide landscape planting at the southern part of the Site and vertical greening over the retaining walls, as the Site is close to the edge of existing lush woodland to the south, the construction of the proposed Small House would disturb tree roots of existing trees adjoining the Site within the wooded area and hence causing further disturbance to the wooded land. In this regard, the proposed development does not comply with the TPB-PG No.10 and the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas.
- 7.4 In support of the review application, the applicant also argues that the Site should be

considered as an infill site close to the existing newly formed village cluster and therefore the proposed development is generally in compliance with the relevant assessment criteria in the Interim Criteria. On this point, as shown on **Plan R-2a**, it is noted that while the Site is located in between two major village clusters to the north and south within the same “GB” zone, and is located next to a number of approved applications including Application No. A/TP/641 to its immediate west, there is still vacant land to the immediate south and east of the Site. The Site is not completely surrounded by existing and approved Small Houses.

- 7.5 The applicant further argues that the proposed development would not set an undesirable precedent as each application should be considered by the Board on its individual merits. Moreover, even if planning permissions are granted to the two outstanding Small House grant applications under processing by LandsD to the immediate east and south of the Site, the impact will only be limited to only two more proposed Small House developments. However, the RNTPC, during the deliberation of the application at s.16 stage, considered that the approval of the application would set an undesirable precedent in particular the Small House grant applications submitted to the immediate east and west of the Site. These applications, if approved, would result in further extension of Small House developments into the “GB” zone, particularly for this strip of vegetated slope which was serving as a buffer between the two existing village clusters.
- 7.6 The proposed Small House is not in line with the planning intention of the “GB” 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 the “GB” zone. No strong planning justification is provided in the applicant’s submission for the review application to justify a departure from the planning intention.
- 7.7 Since August 2015, the Board has adopted a more cautious approach in approving applications for Small House development. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand under the Interim Criteria, more weighting has been put on the number of outstanding Small House applications provided by LandsD. Based on the latest estimate by the PlanD, about 2.34 ha (or equivalent to about 93 Small House sites) is available within the “V” zone of the concerned villages (**Plan R-2b**). Although land available within the “V” zone for Small House development is insufficient to fully meet the future demand of 315 Small Houses, such available land (2.34 ha or equivalent to 93 Small House sites) is capable to meet the 41<sup>1</sup> outstanding Small House applications. Give that land is still available within “V” zone, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 7.8 C for T has general reservation on the application but considers that the application only involving development of a Small House can be tolerated. Other relevant Government departments including H(GEO) of CEDD, CE/MN of DSD, DEP, CE/C of WSD, CHE/NTE of HyD and D of FS have no objection to or no adverse comment on the application.

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<sup>1</sup> Among the 41 outstanding Small House applications, 21 of them fall within “V” zone and 20 straddle or outside the “V” zone. For those 20 applications straddling or outside the “V” zone, six of them have obtained valid planning approval from the Board.

- 7.9 According to **Plan R-2a**, there are 30 similar applications for Small House development in close proximity to the Site. Except for Application No. A/TP/562, which was rejected on 17.10.2014 mainly on technical grounds, the other 29 applications were approved. The last application No. A/TP/641 was approved on 18.5.2018 after the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015 mainly on the grounds that the proposed development was generally in line with the TPB-PG No.10 in that it would not cause adverse geotechnical impact; and was in close proximity to existing Small Houses and a cluster of approved Small House applications.
- 7.10 Regarding the public comments objecting to the application on slope stability and flooding risk, 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 and having taken into account the public comments mentioned in paragraph 6 and the written justifications submitted by the applicant in support of the application, PlanD does not support the review application for the following reasons:
- (a) the proposed development is not in line with the planning intention of "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 to justify a departure from the planning intention;
  - (b) the proposed development does not comply with the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape, and the applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas;
  - (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas; and
  - (d) land is still available within the "Village Type Development" ("V") zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu 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 application, it is suggested that the permission shall be valid until 27.3.22.5.2024, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of a landscaping proposal to the satisfaction of the Director of Planning 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.

**9. Attachments**

|                               |   |
|-------------------------------|---|
| <b>Drawings R-1 &amp; R-2</b> | Site formation plan and section submitted by the applicant  |
| <b>Drawings R3 to R-5</b>     | Landscape plans submitted by the applicant  |
| <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/TP/662  |
| <b>Annex B</b>                | Extract of minutes of the RNTPC meeting held on 3.5.2019  |
| <b>Annex C</b>                | Secretary of the Town Planning Board's letters dated 17.5.2019  |
| <b>Annex D1</b>               | Letter received by the Town Planning Board on 6.6.2019 from the applicant applying for a review of the RNTPC's decision |
| <b>Annex D2</b>               | Written representation submitted by the applicant's representative received on 18.10.2019                               |



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|-----------------|--|
| <b>Annex D3</b> | Further information submitted by the applicant's representative received on 13.12.2019 |
| <b>Annex D4</b> | Further information submitted by the applicant's representative received on 11.2.2020  |
| <b>Annex E</b>  | Similar applications   |
| <b>Annex F</b>  | Public comments  |
| <b>Annex G</b>  | Recommended advisory clauses   |

**PLANNING DEPARTMENT  
MARCHMAY 2020**