

TOWN PLANNING BOARD

TPB Paper No. 11058

**For Consideration by
the Town Planning Board on 24.4.2026**

**REVIEW OF APPLICATION NO. A/NE-SSH/166
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted House – Small House)
in “Green Belt” Zone**

Government Land in D.D. 209, Kei Ling Ha San Wai, Sai Kung North

REVIEW OF APPLICATION NO. A/NE-SSH/166
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE

**Proposed House (New Territories Exempted House (NTEH) – Small House)
in “Green Belt” (“GB”) Zone**

Government Land (GL) in D.D. 209, Kei Ling Ha San Wai, Sai Kung North

1. Background

- 1.1 On 11.11.2025, the applicant, Mr. HO Richard Yung Shen represented by T.H. & Associates Limited, sought planning permission to build a proposed NTEH (Small House) at the application site (the Site) under section 16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “GB” on the approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11 (**Plan R-1**).
- 1.2 On 9.1.2026, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
- (a) the proposed development was not in line with the planning intention of the “GB” zone which was 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 was a general presumption against development within this zone. There was no strong planning justification in the submission for a departure from the planning intention;
 - (b) the proposed development did not comply with the Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ in that the proposed development would involve extensive clearance of existing natural vegetation; and
 - (c) the proposed development did not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there was no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Kei Ling Ha San Wai. 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 infrastructures and services.

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

- (a) RNTPC Paper No. A/NE-SSH/166 (Annex A)
- (b) Extract of minutes of the RNTPC Meeting held on 9.1.2026 (Annex B)
- (c) Secretary of the Board's letter dated 23.1.2026 (Annex C)

2. **Application for Review**

On 11.2.2026, the applicant applied under section 17(1) of the Ordinance for a review of the RNTPC's decision to reject the application (Annex D).

3. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the review application are detailed in the written representation at Annex D, as summarised below:

- (a) there are existing houses in the vicinity of the Site as well as within the "GB" zone (Plan R-2a);
- (b) the Site has no existing natural vegetation, part of which has been used for farming; and
- (c) the applicant notes that the available land in the "V" zone of Kei Ling Ha San Wai is largely under private ownership or occupied by village access routes, and some situated on steep terrain would entail high construction costs for Small House development. The applicant therefore considers the Site to be the only flat land suitable for building a house without causing damage to natural vegetation or obstructing emergency access routes.

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 consideration of the section 16 application by the RNTPC are set out in paragraph 8 of Annex A. There has been no material change in the situation of the Site and the surrounding areas since then.

4.2 The Site is:

- (a) situated on a gentle slope and currently covered with vegetation (Plan R-4);
- (b) located entirely within the village 'environs' ('VE') of Kei Ling Ha San Wai (Plan R-2a); and
- (c) accessible via a local track leading to Sai Sha Road (Plan R-1).

- 4.3 The surrounding areas are predominantly rural in character comprising village houses and dense woodland. To the north and northeast of the Site is the village proper of Kei Ling Ha San Wai (**Plan R-2a**). To the south and east are dense woodland (**Plan R-3**).

Planning Intention

- 4.4 There has been no change in the planning intention of the “GB” zone as mentioned in paragraph 9 of **Annex A**, 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.

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 promulgated on 7.9.2007 is at **Appendix II** of **Annex A**.

Town Planning Board Guidelines

- 4.6 TPB PG-No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’, which is relevant to the consideration of the section 16 application, is still effective. The relevant assessment criteria are at **Appendix III** of **Annex A**.

Previous Application

- 4.7 There is no previous application at the Site.

Similar Applications

- 4.8 When the section 16 application was considered by the RNTPC on 9.1.2026, there were 16 similar applications involving 12 sites for proposed Small House developments in the vicinity of the Site, of which 9 sites fell entirely within the same “GB” zone, two straddled the same “GB” and adjoining “V” zones, and one straddled the same “GB” and adjoining “V” and “Government, Institution or Community” (“G/IC”) zones, since the first promulgation of the Interim Criteria on 24.11.2000. Among the 16 similar applications, 14 were approved and two were rejected by the RNTPC. There has been no change in the number of similar applications since then.
- 4.9 Among the 14 approved applications, 10 applications (No. A/NE-SSH/29, 40, 45, 58, 73, 81, 83, 84, 86 and 87) were approved with conditions by the RNTPC between 2003 and 2014 (i.e. prior to the formal adoption of a more cautious approach by the Board in August 2015¹), mainly on the considerations that the proposed Small House footprints fell mostly within the ‘VE’; there was a

¹ Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications.

general shortage of land to meet the demand for Small House development in the “V” zone at the time of consideration; no significant adverse impact on the surrounding areas was anticipated. The remaining four applications (No. A/NE-SSH/102, 125, 148 and 158) were approved between 2016 and 2024, mainly on sympathetic considerations that the proposed Small House footprints fell within the ‘VE’; the site was situated right between two existing village houses which could be considered as an ‘infill’ development (for application No. A/NE-SSH/102); and the sites were the subject of previously approved applications and the Small House grant applications were already at an advance stage (for applications No. A/NE-SSH/125, 148 and 158).

- 4.10 The remaining two similar applications (No. A/NE-SSH/116 and 123) covering largely the same site were both rejected by the RNTPC in 2018, mainly for the reasons of not being in line with the planning intention of the “GB” zone and having no strong justification to departure from the planning intention; not complying with TPB PG-No. 10 due to involving clearance of vegetation and affecting the existing natural landscape on the surrounding areas; not complying with the Interim Criteria due to adverse landscape impact on the surrounding areas; and land still being available in “V” zone for Small House development at the time of consideration.
- 4.11 Details of the similar applications are summarised at **Appendix IV** of **Annex A** and their locations are shown on **Plan R-2a**.

5. Comments from Relevant Government Departments

- 5.1 Comments on the section 16 application made by relevant government departments are set out in paragraph 10 and **Appendix V** of **Annex A**. Their advisory comments in the Recommended Advisory Clauses, if any, are at **Appendix VI** of **Annex A** and recapped at **Annex E**.
- 5.2 For the review application, relevant government departments have been further consulted and they maintain their previous comments on the application. Updated comments from the District Lands Officer/Tai Po of Lands Department (DLO/TP, LandsD) on the review application are as follows:

Land Administration

5.2.1 Comments of DLO/TP, LandsD:

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Kei Ling Ha San Wai of Sai Kung North Heung, as confirmed by the Vice-chairman of Sai Kung North Rural Committee. However, his eligibility for a Small House grant has yet to be ascertained;
- (c) the applicant has applied for a Small House on the Site; however, the application was rejected since no valid planning permission has been granted;

- (d) the Site is on GL and falls wholly within the ‘VE’ of Kei Ling Ha San Wai. Also, the Site is not covered by Modification of Tenancy/Building Licence;
- (e) the applicant is required to comply with the Drainage and Health Requirements for standard septic tank and soakage pit system if adopted; and
- (f) the total number of outstanding Small House applications for Kei Ling Ha San Wai is 16 (13 at the time of consideration of the section 16 application), while the 10-year Small House demand forecast is 7 (16 at the time of consideration of the section 16 application).

5.2.2 In view of the latest comments of DLO/TP, LandsD, the revised assessment of the land required and land available for Small House development (stated in paragraph 10.1(3) of **Annex A**) is as follows:

<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	✓		<u>Land Required</u> Land required to meet Small House demand in Kei Ling Ha San Wai: about 0.58 ha (equivalent to 23 Small House sites). The number of outstanding Small House applications is 16 ² while the 10-year Small House demand forecast is 7.
Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> Land available to meet Small House demand within the “V” zone of Kei Ling Ha San Wai: about 0.95 ha (equivalent to about 37 Small House sites) (Plan R-2b).

6. Public Comments Received During Statutory Publication Period

6.1 On 27.2.2026, the review application was published for public inspection. During the statutory public inspection period, a total of five public comments were received (**Annex F**), including one from the village representative of Kei Ling Ha San Wai, one from the Kadoorie Farm and Botanic Garden, and three

² Among the 16 outstanding Small House applications, 12 fall within “V” zone and four straddle or fall outside the “V” zone. For cases straddling or falling outside of “V” zones, three of them are the subject of approved planning applications.

from individuals. All five comments object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; it will result in degradation of the natural environment with adverse landscape impact; it will pose risks of flooding and slope safety; the Site involves suspected unauthorized tree felling and site formation works; similar applications for Small House development in the vicinity of the Site were rejected; there is still land available within the “V” zone for Small House development.

- 6.2 At the section 16 application stage, three comments were received and set out in paragraph 11 of **Annex A**.

7. Planning Considerations and Assessments

- 7.1 The application is for a review of the RNTPC’s decision on 9.1.2026 to reject the section 16 application for proposed Small House at the Site zoned “GB” on the OZP (**Plan R-1**) with the reasons stated in paragraph 1.2 above. To support the review application, the applicant has submitted written representation as set out in paragraph 3 above. Since the consideration of the section 16 application by the RNTPC, there has been no material change in planning circumstances. Having considered the written representation, the planning assessments on the review application are detailed below. In gist, taking into account that (i) the proposed development is not in line with the planning intention of the “GB” zone and there is no strong planning justification in the submission for a departure from the planning intention; (ii) the proposed development does not comply with TPB PG-No. 10; and (iii) there is no general shortage of land in meeting the demand for Small House development within the “V” zone of Kei Ling Ha San Wai, no sympathetic consideration will be given to the current review application.

Planning Intention of the “GB” Zone and TPB PG-No.10

- 7.2 The proposed Small House development 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 this zone. There is no strong planning justification in the submission for a departure from the planning intention of the “GB” zone.
- 7.3 Although the applicant claims that the Site has no existing natural vegetation and part of which has been used for farming purpose, it should be noted that the Site is currently covered with vegetation and no farming activity has been found (**Plan R-4**). According to TPB PG-No. 10 (**Appendix III** of **Annex A**), an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. While the Director of Agriculture, Fisheries and Conservation maintains his previous view of having no comment on the application from nature conservation point of view

and the Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) also maintains her previous view that significant adverse impact arising from this application is not anticipated, the proposed development would involve clearance of existing natural vegetation at the Site. This may further alter the landscape character of the surrounding areas, as well as the “GB” zone, where dense vegetation and woodland are found (**Plan R-3**). In view of the above, the application does not comply with the TPB-PG No. 10.

Land Available within the “V” Zone of Kei Ling Ha San Wai for Small House Development

7.4 In response to the applicant’s claim that there were existing houses in the vicinity of the Site and within the “GB” zone, each planning application for Small House development would be considered by the Board on its individual merits as discussed in paragraphs 4.9 and 4.10 above, amongst others, that whether the Small House development fulfils the Interim Criteria. Regarding the Interim Criteria (**Appendix II of Annex A**), the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Kei Ling Ha San Wai (**Plan R-2a**). According to DLO/TP, LandsD, the number of outstanding Small House applications for Kei Ling Ha San Wai is 16 while the 10-year Small House demand forecast is 7. Based on the latest estimate by PlanD, about 0.95 ha of land (or equivalent to about 37 Small House sites) is available within the “V” zone concerned for Small House development (**Plan R-2b**). In this regard, there is no general shortage of land and land available within the “V” zone is sufficient to meet the outstanding Small House applications as well as the 10-year Small House demand forecast. Furthermore, the Site is not the subject of any previous planning permission for Small House development. According to DLO/TP, LandsD, the applicant applied for a Small House grant at the Site but the application was rejected as no valid planning permission had been granted. In view of the above, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

7.5 The applicant also states that the Site is the only suitable land for Small House development within the village, as the available land in the “V” zone of Kei Ling Ha San Wai is largely under private ownership or occupied by village access routes, and some situated on steep terrain. However, land ownership is not a material consideration for planning applications, and land occupied by existing village houses, road, footpath and track, steep slope, tree clusters etc. have not been accounted for available land of Small House development as mentioned in paragraph 7.4 above.

Similar Applications

7.6 There are 16 similar applications involving 12 sites for proposed Small House developments in the vicinity of the Site (**Plan R-2a**). Among the 14 approved applications, 10 applications were approved with conditions by the RNTPC prior to the formal adoption of a more cautious approach by the Board in August 2015, and four applications were approved between 2016 and 2024, mainly on sympathetic considerations as mentioned in paragraph 4.9 above. The

planning circumstances of the current review application are different from those of the approved similar applications. The remaining two similar applications were rejected by the RNTPC in 2018 mainly for the reasons as mentioned in paragraph 4.10 above. The planning circumstances of the current review application are similar to those of the rejected similar applications. Rejecting the current review application is generally in line with the previous RNTPC's decisions.

Relevant Government Departments' Comments

7.7 Other relevant government departments consulted maintain no adverse comment on or no objection to the current review application.

Public Comments

7.8 Regarding the public comments on the review application as detailed in paragraph 6 above, the government departments' comments and planning considerations and assessments above are relevant.

8. Planning Department's Views

8.1 Based on the assessments made in paragraph 7 above, having taken into account the public comments in paragraph 6 above and given that there has been no material change in the planning circumstances since the consideration of the subject application by the RNTPC, PlanD 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 "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 this zone. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed development does not comply with the TPB 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 extensive clearance of existing natural vegetation; and
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "V" zone of Kei Ling Ha San Wai. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

8.2 Alternatively, should the Board decide to approve the application, it is suggested that the permission shall be valid until 24.4.2030, 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 advisory clauses at **Annex E** are also suggested for Members' reference.

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 condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

10. Attachments

Annex A	RNTPC Paper No. A/NE-SSH/166
Annex B	Extract of Minutes of the RNTPC Meeting held on 9.1.2026
Annex C	Secretary of the Board's Letter dated 23.1.2026
Annex D	Letter from the Applicant dated 11.2.2026
Annex E	Recommended Advisory Clauses
Annex F	Public Comments
Plan R-1	Location Plan
Plan R-2a	Site Plan
Plan R-2b	Estimated Amount of Land Available within the "V" zone of Kei Ling Ha San Wai for Small House Development
Plan R-3	Aerial Photo
Plan R-4	Site Photos