

# **TOWN PLANNING BOARD**

**TPB Paper No. 10929**

**For Consideration by  
the Town Planning Board on 6.10.2023**

**REVIEW OF APPLICATION NO. A/NE-MUP/186  
UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed House (New Territories Exempted Houses - Small House)  
in “Agriculture” and “Village Type Development” Zones**

**Lot 144 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok, New Territories**

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**Lot 144 S.A in D.D. 46, Tai Tong Wu Village, Sha Tau Kok, New Territories**

**1. Background**

- 1.1 On 12.4.2023, the applicant, Mr. CHAN Sui Ching, represented by Mr. Hui Kwan Yee sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) on the application site (the Site) in Tai Tong Wu (**Plans R-1 and R-2a**) under s.16 of the Town Planning Ordinance (the Ordinance). The Site falls within an area zoned “Agriculture” (“AGR”) (about 98% of the Site) and “Village Type Development” (“V”) (about 2% of the Site)<sup>1</sup> on the approved Man Uk Pin OZP No. S/NE-MUP/11.
- 1.2 On 9.6.2023, 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 was not in line with the planning intention of the “AGR” zone which was primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There was no strong planning justification in the submission for a departure from the planning intention; and
  - (b) land was still available within the “V” zone of Tai Tong Wu Village which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for 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-MUP/186 (Annex A)
  - (b) Extract of minutes of the RNTPC meeting held on 9.6.2023 (Annex B)
  - (c) Secretary of Town Planning Board’s letter dated 23.6.2023 (Annex C)

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<sup>1</sup> About 4m<sup>2</sup> (i.e. 2%) of the Site falls within the “V” zone, which is considered as minor boundary adjustment and not included in the planning assessment.

## 2. **Application for Review**

On 7.7.2023, the applicants' representative applied under s.17(1) of the Ordinance for review of the RNTPC's decision to reject the application (**Annex D**). The applicant has not submitted any written representation in support of the review application.

## 3. **The Section 16 Application**

### *The Site and its Surrounding Areas (Plans R-1 to R-4)*

3.1 The situation of the Site and the surrounding areas at the time of consideration of the s.16 application by RNTPC were described in paragraphs 7.1 and 7.2 of **Annex A**. There has been no material change in the situation since then.

3.2 The Site is:

- (a) flat, covered with grass and mostly vacant; and
- (b) accessible via a local track from Sha Tau Kok – Wo Hang.

3.3 The surrounding areas are of rural landscape character comprising vegetated areas, village houses and woodlands. A car repairing workshop was found to northeast of the Site, which is under monitoring by the Planning Authority.

### *Planning Intention*

3.4 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

### *Assessment Criteria*

3.5 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**.

### *Previous Applications*

3.6 The Site was the subject of two previous applications (No. A/NE-MUP/65 and 175) for the same use. Application No. A/NE-MUP/65 was submitted by a different applicant and was approved with conditions by RNTPC on 6.5.2011 (i.e. before the formal adoption of a more cautious approach by the Board since August 2015<sup>2</sup>) mainly on the grounds that the application generally complied with the Interim Criteria in that the footprint of the proposed Small House fell mostly within the village ‘environ’ (‘VE’). The planning permission lapsed on 7.5.2018. Application No. A/NE-MUP/175 was submitted by the same applicant of the current application and was rejected by RNTPC on 13.1.2023 based on the same grounds as the current application.

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<sup>2</sup> Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting shall be put on the number of outstanding Small House applications provided by LandsD.

- 3.7 Details of the previous applications are summarized at **Annex E** and their locations are shown on **Plan R-2a**.

Similar Applications

- 3.8 When the s.16 application was considered by RNTPC on 9.6.2023, there were three similar applications (No. A/NE-MUP/41, 43 and 66) in the vicinity of the Site within/partly within the same “AGR” zone 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. These applications were approved by RNTPC between 2002 and 2011 before the Board’s formal adoption of a more cautious approach since August 2015, mainly on the grounds that more than 50% of the proposed Small House footprints fell within the ‘VE’; there was a general shortage of land within “V” zone in meeting the Small House demand at the time of consideration; and the proposed Small Houses would unlikely generate significant adverse impacts on the surrounding areas.
- 3.9 Details of the similar applications are summarized at **Annex F** and their locations are shown on **Plan R-2a**.

**4. Comments from Relevant Government Departments**

- 4.1 Comments on the s.16 application made by relevant government departments are stated in paragraph 9 and Appendix V of **Annex A**.
- 4.2 For the review application, the relevant government departments have been further consulted. They all maintain their previous views on the s.16 application and have no further comments on the review application, except for the following comments relayed by the District Officer (North), Home Affairs Department (DO(N), HAD), as follows:

He has consulted the locals regarding the review application. The Indigenous Inhabitant Representative of Tai Tong Wu supports the application. The Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency and the Resident Representative of Tai Tong Wu, have no comment on the application.

- 4.3 The views of the Director of Agriculture, Fisheries and Conservation (DAFC) are recapitulated as follows:

The subject site falls within the “AGR” zone and is abandoned. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The subject site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the subject site possesses potential for agricultural rehabilitation, the proposed development is not supported from an agricultural perspective.

**5. Public Comments Received During Statutory Publication Period (Annex G)**

- 5.1 On 21.7.2023, the review application was published for public inspection. During the statutory public inspection period, one public comment was received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application.

- 5.2 Three public comments (one with no comment and two adverse comments) were received at the s.16 application stage as set out in paragraph 10 of **Annex A**.

## **6. Planning Considerations and Assessments**

- 6.1 The subject s.16 application was rejected by RNTPC on 9.6.2023 mainly for being not in line with the planning intention of the “AGR” zone, and land was still available within the “V” zone of Tai Tong Wu Village for Small House development. There has been no material change in the planning circumstances since the consideration of the subject application by RNTPC in June 2023. The planning consideration and assessments as set out in paragraph 11 of **Annex A** remain valid. The applicant has not submitted any written representation in support of the review application.

### *Planning Intention of the “AGR” zone*

- 6.2 The application is for a proposed Small House at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong justification in the current submission for a departure of the planning intention.

### *Land Availability within the “V” zone*

- 6.3 As advised by DLO/N, LandsD, the number of outstanding Small House for Tai Tong Wu is 19 while the 10-year Small House demand forecast is 110. Based on PlanD’s latest estimate, about 1.27 ha (equivalent to 50 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zones of the Tai Tong Wu Village is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications (**Plan R-2b**). It should be noted that the Board has formally adopted a more cautious approach in approving applications for Small House development since August 2015. Among 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 applications provided by LandsD. As such, 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.
- 6.4 No adverse public comment has been received regarding the review application as detailed in paragraph 5 above.

## **7. Planning Department’s Views**

- 7.1 Based on the assessments made in paragraph 6 and having taken into account the public comments mentioned in paragraph 5 and given that there is no material change in the planning circumstances since the consideration of the subject application by RNTPC, Planning Department maintains its previous views of not supporting the review application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “V” zone of Tai Tong Wu Village 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 orderly development pattern, efficient use of land and provision of infrastructures and services.

7.2 Alternatively, should the Board decide to approve the review application, it is suggested that the permission shall be valid until 6.10.2027, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Condition

The submission and implementation of a 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 H**.

### **8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of RNTPC’s decision and decide whether to accede to the application.
- 8.2 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.
- 8.3 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.

### **9. Attachments**

<b>Plan R-1</b>	Location Plan
<b>Plan R-2a</b>	Site Plan
<b>Plan R-2b</b>	Estimated Amount of Land Available within the “V” zone of Tai Tong Wu for Small House Development
<b>Plan R-3</b>	Aerial Photo
<b>Plan R-4</b>	Site Photos
<b>Annex A</b>	RNTPC Paper No. A/NE-MUP/186
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 9.6.2023
<b>Annex C</b>	Secretary of the Town Planning Board’s letter dated 23.6.2023

<b>Annex D</b>	Letter received on 7.7.2023 from the applicant's representative applying for review of the RNTPC's decision
<b>Annex E</b>	Previous Applications
<b>Annex F</b>	Similar Applications
<b>Annex G</b>	Public Comment
<b>Annex H</b>	Recommended Advisory Clauses

**PLANNING DEPARTMENT  
OCTOBER 2023**