

**Minutes of 1103rd Meeting of the
Town Planning Board held on 15.1.2016**

Present

Permanent Secretary for Development
(Planning and Lands)
Mr Michael W.L. Wong

Chairman

Mr Stanley Y.F. Wong

Vice-Chairman

Mr Roger K.H. Luk

Professor S.C. Wong

Professor P.P. Ho

Professor Eddie C.M. Hui

Ms Julia M.K. Lau

Mr Clarence W.C. Leung

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Mr H.W. Cheung

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Lincoln L.H. Huang

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr H.F. Leung

Mr Stephen H.B. Yau

Mr. F.C. Chan

Mr David Y.T. Lui

Mr Frankie W.C. Yeung

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Deputy Director of Environmental Protection
Mr C.W. Tse

Principal Assistant Secretary (Transport)
Transport and Housing Bureau
Miss Winnie M.W. Wong

Director of Lands
Ms Bernadette H.H. Linn

Assistant Director (2), Home Affairs Department
Miss Charmaine Wong

Director of Planning
Mr K.K. Ling

Deputy Director of Planning/District
Mr Raymond K.W. Lee

Secretary

Absent with Apologies

Dr C.P. Lau

Ms Bonnie J.Y. Chan

Ms Christina M. Lee

In Attendance

Assistant Director of Planning/Board
Miss Fiona S.Y. Lung

Chief Town Planner/Town Planning Board
Ms Lily Y.M. Yam

Senior Town Planner/Town Planning Board
Ms Karen F.Y. Wong

Agenda Item 1

[Open meeting] [The meeting was conducted in Cantonese.]

Confirmation of Minutes of the 1101st Meeting held on 11.12.2015

1. The minutes of the 1101st meeting held on 11.12.2015 were confirmed without amendments.

Agenda Item 2

[The meeting was conducted in Cantonese.]

Matters Arising

- (i) New Judicial Reviews lodged against the Decisions of the Town Planning Board
(Open Meeting)

- (a) Judicial Reviews lodged against the Decision of the Town Planning Board in respect of Application No. A/I-NEL/6 for Temporary Concrete Batching Plant for a Period of 3 Years in “Undetermined” zone, Tsing Chau Wan, Lantau
(HCAL 231/2015)
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2. The Secretary reported that as RHL Surveyors Limited (RHL) and Ramboll Environ Hong Kong Limited (Environ) were consultants of the applicant of the subject application, the following Members had declared interests in the item:

Mr H.F. Leung	-	being an employee of the Department of Real Estate and Construction in the Faculty of Architecture of the University of Hong Kong which received a donation from RHL before
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Mr Ivan C.S. Fu] having current business dealings with
Ms Julia M.K. Lau] Environ
Ms Janice W.M. Lai]
Mr H.W. Cheung]

Mr Dominic K.K. Lam - having past business dealings with Environ

3. Members noted that the item was to report on the JR application, and agreed that the above Members could stay in the meeting. Members noted that Ms Julia M.K. Lau had not yet arrived to join the meeting.

4. The Secretary reported that on 26.11.2015, a JR application (HCAL 231/2015) was lodged by Chung Shui Mui (the Applicant) against the decision of the Town Planning Board (the Board) made on 28.8.2015 to approve upon review application No. A/I-NEL/6. The Applicant was a member of the general public living in Kwai Tsing.

5. The application site was located at Lot 30 (Part) in D.D.362, Tsing Chau Wan at the northeastern shore of Lantau Island. The application was for temporary concrete batching plant for a period of 3 years in “Undetermined” zone on the approved North-East Lantau Outline Zoning Plan No. S/I-NEL/12.

6. The Applicant raised the following grounds of JR:

- (a) failure to take into account public comments made at the section 16 stage;
- (b) failure to take into account relevant considerations (i.e. whether the application was for genuine temporary use);
- (c) inconsistency (i.e. failure to take into account the Board’s decision on rejecting a previous application at the same site); and
- (d) the Board’s decision was Wednesbury unreasonable and irrational.

7. The Applicant sought an order to quash the Board’s decision and, if leave was granted, an order to stay the decision.

8. The Applicant had made an application for Legal Aid on 18.12.2015 which was being processed by the Legal Aid Department. The Court had not yet granted leave to the above JR application.

9. Members noted the JR application and agreed that the Secretary would represent the Board in all matters relating to the JR in the usual manner.

[Miss Winnie M.W. Wong arrived to join the meeting at this point.]

- (b) Judicial Review Application lodged against the Decision of the Town Planning Board in respect of Application No. A/YL-ST/476 for Proposed Temporary Cross-Boundary Shopping Centre with Ancillary Car Park, Eating Place, Shop and Services (Fast Food Shop), Office and Storage of Consumer Goods for a Period of 3 Years, San Tin, Yuen Long (HCAL 245/2015)

10. The Secretary reported that as the application was submitted by Topcycle Development Limited which was a subsidiary of the Henderson Land Development Company Limited (HLD), with Mannings (Asia) Consultants Limited (MCL) as one of the consultants of the applicant, the following Members had declared interests in the item:

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| Mr Ivan C.S. Fu |] | having current business dealings with HLD |
| Ms Janice W.M. Lai |] | |
| Mr Patrick H.T. Lau |] | |
| Mr Dominic K.K. Lam | - | having past business dealings with HLD |
| Professor S.C. Wong | - | being an employee of the University of Hong Kong (HKU) which received a donation from a family member of the Chairman of HLD before and having current business dealings with MCL |
| Mr H.F. Leung |] | being employees of HKU which received a |
| Dr Wilton W.T. Fok |] | donation from a family member of the Chairman of HLD before |

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|---------------------|---|---|
| Mr Roger K.H. Luk |] | being a Member of the Council (Mr Luk) or |
| Professor P.P. Ho |] | employees (Professor Ho and Professor Chau) |
| Professor K.C. Chau |] | of the Chinese University of Hong Kong which |
| | | received a donation from a family member of |
| | | the Chairman of HLD before |
| | | |
| Dr W.K. Yau | - | being a Director of a non-governmental |
| | | organization which received a donation from a |
| | | family member of the Chairman of HLD before |
| | | |
| Ms Christina M. Lee | - | being the Secretary-General of the Hong Kong |
| | | Metropolitan Sports Events Association which |
| | | obtained sponsorship from HLD before |
| | | |
| Mr Peter K.T. Yuen | - | being a member of the Board of Governors of |
| | | the Hong Kong Arts Centre which received a |
| | | donation from the Executive Director of HLD |
| | | before |

11. Members noted that the item was to report on the JR application, and agreed that the above Members could stay in the meeting. Members noted that Dr W.K. Yau, Ms Julia M.K. Lau, Dr Wilton W.T. Fok, Mr Patrick H.T. Lau and Mr Peter K.T. Yuen had not yet arrived to join the meeting.

12. The Secretary reported that on 14.12.2015, a JR application (HCAL 245/2015) was lodged by Shiu Man Bun against the decision of the Rural and New Town Planning Committee (RNTPC) of the Board made on 18.9.2015 to approve Application No. A/YL-ST/476. The Applicant was a resident of San Tin.

13. The application site was located at Lots 661 S.C RP, 669 RP, 674 RP (part) and 733 RP (part) in D.D. 99 and adjoining government land, San Tin, Yuen Long. The application was for temporary cross-boundary shopping centre with ancillary car park, eating place, shop and services (fast food shop), office and storage of consumer goods for a period of

3 years in “Other Specified Uses” annotated “Service Stations” zone on the approved San Tin Outline Zoning Plan No. S/YL-ST/8.

14. The Applicant raised the following grounds of JR:

- (a) failure to take into account relevant considerations (i.e. traffic, drainage, environmental and ecological impacts of the proposed development and local views); and
- (b) the RNTPC’s decision was Wednesbury unreasonable.

15. The Applicant sought an order to quash the RNTPC’s decision and, if leave was granted, an injunction restraining the carrying out of further surveying and/or construction work on the site.

16. The Applicant had made an application for Legal Aid on 18.12.2015 which was being processed by the Legal Aid Department. The Court had not yet granted leave to the JR application.

17. Members noted the JR application and agreed that the Secretary would represent the Board in all matters relating to the JR in the usual manner.

[Ms Bernadette H.H. Linn arrived to join the meeting at this point.]

(ii) New Town Planning Appeal Received

Town Planning Appeal No. 12 of 2015

Proposed House (New Territories Exempted House) in “Agriculture” Zone, Lot 926 S.A ss1, S.D ss.5 in D.D. 109, Tai Kong Po, Kam Tin, Yuen Long

(Application No. A/YL-KTN/461)

(Open Meeting)

18. A Notice of Appeal was received by the Appeal Board Panel (Town Planning) on 22.12.2015 against the decision of the Town Planning Board (the Board) on 16.10.2015 to reject on review an application for proposed House (New Territories Exempted House) at Lot

926 S.A ss1, S.D ss.5 in D.D. 109, Tai Kong Po, Kam Tin, Yuen Long. The site was zoned “Agriculture” (“AGR”) on the approved Kam Tin North Outline Zoning Plan No. S/YL-KTN/9.

19. The application was rejected by the Board for the following reasons:
- (a) the proposed development was not in line with the planning intention of the “AGR” zone which was to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It was also intended 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) the approval of the application would have set an undesirable precedent for similar application within the “AGR” zone. The cumulative effect of approving such applications would lead to degradation of the rural character and environment in the area.
20. The hearing date of the appeal was yet to be fixed. Members noted the Appeal and agreed that the Secretary would act on behalf of the Board in dealing with the appeal in the usual manner.

[Mr Peter K.T. Yuen arrived to join the meeting at this point.]

(iii) Town Planning Appeal Decision Received

Town Planning Appeal No. 15 of 2014

Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years in “Village Type Development” zone, Lots 4891 RP (Part), 4892 (Part), 4893 (Part) and 4894 in D.D. 116 and Adjoining Government Land, Tai Tong Road, Tai Tong, Yuen Long (Application No. A/YL-TT/327)

(Open Meeting)

21. The Secretary reported that an appeal was lodged by the Appellant on 23.12.2014 against the decision of the Town Planning Board (the Board) on 24.10.2014 to reject on

review an application for temporary shop and services (real estate agency) for a period of 3 years at Lots 4891 RP (Part), 4892 (Part), 4893 (Part) and 4894 in D.D. 116 and adjoining government land, Tai Tong, Yuen Long. The appeal site fell within an area zoned “Village Type Development” (“V”) on the approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16.

22. The application was rejected for the following reasons:

- (a) the applicant failed to demonstrate that the development would not cause adverse traffic, landscape and drainage impacts on the surrounding area; and
- (b) previous planning permissions granted to the applicant under applications No. A/YL-TT/289 and 302 were revoked due to non-compliance of the approval conditions. Approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar applications, thus nullifying the statutory planning control mechanism.

23. The appeal was heard on 7.10.2015 and allowed on 22.12.2015 by the Appeal Board Panel (Town Planning)(TPAB). Planning permission was granted for a period of 12 months until 22.12.2016, instead of three years as applied, with approval conditions. Major considerations included :

- (a) the applied use was considered not entirely in line with the planning intention of the “V” zone but could provide real estate service for the locals. Approval of the development on a temporary basis would not frustrate the long-term planning intention of the “V” zone;
- (b) the proposed development was not incompatible with the surrounding land uses. The potential adverse impacts arising from the proposed development could be adequately mitigated by the imposition of relevant approval conditions;

- (c) drainage, landscaping, parking and run-in/out issues for the subject appeal could be adequately remedied/addressed by imposition of appropriate approval conditions given that the Appellant's proposals for the subject appeal case had addressed the departmental comments raised previously; and there was no apparent obstacle to the implementation of the corresponding proposals;
- (d) the issues concerned by the Planning Department were not difficult matters which could not be remedied; previous non-compliances of approval conditions had been reasonably explained; the Appellant had demonstrated sincerity to continue the applied use at the site, accepted all the suggested conditions and promised to comply with them; and it was very likely that the Appellant would remedy the issues and comply with the approval conditions to be imposed; and
- (e) the Appellant would also realize that the planning permission would be revoked if the conditions were not complied with and that the planning permission was unlikely to be granted again after the expiration of 12 months if the issues were not remedied by the Appellant properly.

(iv) Abandonment of Town Planning Appeal
(Open Meeting)

Town Planning Appeal No. 1 of 2015 (1/15)

Proposed 3 Houses (New Territories Exempted Houses – Small Houses) in “Green Belt” Zone, Lots 416 A1, 416 B, 416 C1, 416 C RP, 416 RP, 417 A RP, 417 A1, 417 A2A, 417 A2 RP and 417 B in D.D. 238 and Adjoining Government Land, Ng Fai Tin, Clear Water Bay, Sai Kung

(Application No. A/SK-CWBN/25)

24. The Secretary reported that an appeal had been abandoned by the Appellant on his own accord. Town Planning Appeal No. 1/2015 was received by the Appeal Board Panel (Town Planning) (TPAB) on 16.1.2015 against the decision of the Town Planning Board (the

Board) on 7.11.2014 to reject on review an application for 3 proposed houses (New Territories Exempted Houses – Small Houses) on a site zoned “Green Belt” on the draft Clear Water Bay Peninsula North Outline Zoning Plan.

25. The appeal was abandoned by the Appellant on 5.1.2016. On 7.1.2016, the TPAB formally confirmed that the appeal was abandoned in accordance with Regulation 7(1) of the Town Planning (Appeals) Regulations of the Town Planning Ordinance.

(v) Appeal Statistics

(Open Meeting)

26. The Secretary reported that as at 12.1.2016, 12 cases were yet to be heard by the Appeal Board Panel (Town Planning). Details of the appeal statistics were as follows:

Allowed	34
Dismissed	140
Abandoned/Withdrawn/Invalid	191
Yet to be Heard	12
Decision Outstanding	4
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Total	381

(vi) Matters Arising (vi)

[Confidential Item] [Closed Meeting]

27. This item was recorded under confidential cover.

[Dr W.K. Yau and Dr Wilton W.T. Fok arrived to join the meeting during consideration of Matters Arising (vi).]

(vii) Matters Arising (vii)

[Confidential Item] [Closed Meeting]

28. This item was recorded under confidential cover.

[Ms Julia M.K. Lau and Mr Patrick H.T. Lau arrived to join the meeting during consideration of Matters Arising (vii).]

Sha Tin, Tai Po and North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/DPA/NE-TT/64

Proposed House (New Territories Exempted House – Small House) in Area designated as “Unspecified Use”, Government Land in D.D. 289, Ko Tong, Tai Po

(TPB Paper No. 10059)

[The meeting was conducted in Cantonese.]

29. The following representatives of the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

Mr C.K. Soh - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr Chow Kwai Loi - Applicant’s representative

30. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN, PlanD to brief Members on the review application.

31. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) on 21.5.2015, the applicant sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) at the application site (the Site) which fell within an area designated as “Unspecified Use” on the approved Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area (DPA) Plan No. DPA/NE-TT/2;
- (b) on 17.7.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:

- (i) the application did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (Interim Criteria) in that the proposed development would cause adverse landscape impact on the surrounding area;
 - (ii) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in adverse impacts on the natural environment, infrastructure capacities and landscape character of the area; and
 - (iii) the cumulative effect of approving similar applications would pre-determine the land use zoning of the Outline Zoning Plan (OZP) under preparation;
- (c) on 26.8.2015, the applicant applied for a review of the RNTPC's decision to reject the application. The applicant's justifications were :
- (i) the proposed development would not cause adverse impact on the landscape and natural environment as the applicant was willing to accept any conditions set by the Board;
 - (ii) the applicant undertook to use the footpath to the southeast of the Site for access and not to use the unauthorized track during construction;
 - (iii) the infrastructure capacities should not be an issue and the cumulative effect of approving similar applications would not pre-determine the land use zoning of the OZP under preparation, given that the application was similar to the granted building licenses to the west of the Site and the approved planning applications in Ko Tong; and
 - (iv) the Site fell wholly within the village 'environ' ('VE') of Ko Tong and the applicant was an indigenous villager whose

numerous previous Small House grant applications were rejected due to unsuitable location;

- (d) Small House applications - since the gazettal of the draft DPA Plan on 8.11.2013, a total of 79 similar applications within the “Unspecified Use” area had been received (as at 5.1.2016). Among them, 64 had been considered by the RNTPC or withdrawn by the applicants and 15 cases were yet to be considered by the RNTPC. According to the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), there was a total of 120 outstanding Small House grant applications which fell within the “Unspecified Use” area, of which planning applications for 85 Small House were yet to be received;
- (e) previous application – the Site was not the subject of any previous application;
- (f) similar applications – there were 19 similar applications for proposed house (NTEH - Small House) within the same “Unspecified Use” area on the approved DPA Plan considered by the RNTPC. Thirteen applications were approved with conditions between November 2014 and April 2015 mainly on the considerations that more than 50% of the proposed Small House footprint fell within the ‘VE’ of the concerned village; there was insufficient land within the “V” zone of the concerned village to meet the Small House demand; the proposed Small House was not incompatible with the surrounding environment; significant landscape impact was not anticipated or concern on landscape impact could be addressed by approval condition, and concerned government departments had no objection on the application. The remaining 6 applications were rejected between May and July 2015 for the reasons of not complying with the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas; and setting an undesirable precedent for other similar applications in the area. Two out of the 6 rejected planning applications were rejected also for the reasons that the cumulative effect would result in

adverse impacts on the infrastructure capacities and pre-determine the land use zonings of the OZP under preparation;

- (g) planning intention - the general planning intention of the Area was to protect its high conservation and landscape value and the rural settings which complemented the overall naturalness and the landscape beauty of the surrounding Sai Kung East and West Country Parks, and to reflect the existing recognized villages therein. A large portion of the Area was designated as “Unspecified Use” on the approved DPA pending detailed analysis and studies to establish the appropriate land uses in the course of the preparation of an OZP;
- (h) departmental comments - the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD maintained her objection to the application. The Site was located on a sloping ground within dense woodland. On-going woodland clearance within the Sites and surrounding areas were found. The Director of Agriculture, Fisheries and Conservation (DAFC) maintained her reservation on the application from the nature conservation point of view. The proposed Small House might affect a number of native trees in the vicinity. The alternative access fell entirely on government land and most of it was wooded. DLO/TP, LandsD maintained his reservation on the application. The Site was accessible by an unauthorized track under land control action by his office. Approval would not be given to the applicant to form or disturb government land for the formation of alternative access;
- (i) public comments – a total of 438 public comments on the application were received. 49 public comments were submitted by green groups and Ko Tong Village Owners & Tenants Society and individuals, objecting to the review application mainly on the grounds of not in line with the planning intention of the DPA Plan/ “Unspecified Use” area; causing adverse ecological, landscape and environmental impacts; setting an undesirable precedent for other similar applications; having prior vegetation clearance within the Site and its surrounding area; absence of relevant technical assessments and proper access; insufficient

provision of supporting facilities for additional houses; detailed planning of the OZP not yet completed; contravening the Convention on Biological Diversity; and possible abuse of the Small House Policy, etc. The remaining 389 comments were submitted by individuals supporting the review application mainly on the grounds of providing living spaces for villagers; being more environmentally friendly than the urban developments; the applicant being an indigenous villager; long waiting time for approval of Small House grant application; being a suitable site for Small House development; no adverse impact on the surrounding environment; and presence of approved Small Houses nearby;

(j) PlanD's views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :

- (i) the Site was situated on a vegetated hill slope and most of it had been cleared of vegetation. CTP/UD&L, PlanD maintained her objection and was concerned that approval of the application would set an undesirable precedent to encourage woodland clearance on government land prior to applications and to extend the village into the secondary woodland to the west of Ko Tong Village and the cumulative effect of approving similar applications would result in the general degradation of the woodland and cause adverse impacts on the landscape of the area. DAFC also maintained her reservation on the application from the nature conservation point of view;
- (ii) the Site could be reached via an unauthorized track meandering on the wooded hill slope. DLO/TP, LandsD, advised that there was on-going complaint against the unauthorized track and had reservation on the application as the applicant could not demonstrate how he could gain access to the Site. The alternative access proposed by the applicant was a track sloping down to the existing village cluster, which was indistinctive and difficult to walk on the vegetated slope and most of which was wooded;

- (iii) the applicant claimed that the current application was similar to the granted building licenses and approved planning applications in Ko Tong. As advised by DLO/TP, LandsD, before the first gazettal of the draft DPA Plan on 8.11.2013, only one Small House grant application in the area to the west of the Site obtained Certificates of Exemption (CoE) in December 2011. For the eight applications (No. A/DPA/NE-TT/11, 19 to 25) in Ko Tong approved with conditions by the RNTPC between February and April 2015, their circumstances were different from those of the current application in terms of accessibility and landscape impact;
- (iv) in view of the large number of planning applications received and in anticipation of more forthcoming planning applications (as summarized in paragraph (d) above), the cumulative impacts of those Small House developments on the natural environment and infrastructure should be comprehensively considered in the OZP preparation process. Action was being taken to expedite preparation of the replacement OZP in which detailed analysis and studies to establish the appropriate land uses, including “V” zone suitable for Small House developments, would be undertaken; and
- (v) as there had been no major change in planning circumstances for the Site and its immediate environs since the rejection of the application, there was no strong justification to warrant a departure from the RNTPC’s decision.

32. The Chairman then invited the applicant’s representative to elaborate on the review application. Mr Chow Kwai Loi made the following main points:

- (a) the applicant was his relative who had applied for a small house development for 36 years at 7 different locations. He and the applicant were not highly educated and could not provide well written submissions. All previous applications were not successful;

(b) in 2001, he and some of the villagers submitted Small House applications in the area, while some of those applications were successful, his application was not; and

(c) he requested the Board to consider his application favourably or to advise him where his Small House development could be allowed.

33. As the presentation from PlanD's representative and the applicant's representative had been completed, the Chairman invited questions from Members.

34. A Member asked about the location of the approved Small House applications as pointed out by Mr Chow Kwai Loi. In response, Mr C.K. Soh, DPO/STN, with reference to Plan R-2 of the Paper, said that those were Small House Grant applications concerning 4 sites to the west of the Site approved by DLO/TP before the publication of the first DPA Plan for the Area in 2013. Among the 4 Small House Grant applications, only one applicant proceeded with the development and the construction of that Small House was almost completed. The unauthorized track was built in association with the construction of that Small House. For the other 3 Small House Grants, as the DPA plan was currently in place, the applicants were required to obtain planning permission from the Board before they could proceed with the developments.

35. As Members had no further questions to raise, the Chairman informed the applicant's representative that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/STN and the applicant's representative for attending the meeting. They left the meeting at this point.

Deliberation

36. The Chairman invited Members to consider the review application taking into account the written and oral submissions. Members noted that there was no change in the planning circumstances since the previous consideration of the subject application by the RNTPC, and as such it was likely that the RNTPC's decision to reject the application would be maintained.

37. A Member observed that the applicant and his representative might have difficulty in understanding the reasons for rejecting the subject Small House application, if that turned out to be the decision of the Board, while Small House Grant applications at other locations were approved by DLO/TP. The Member asked whether it was possible to explain to the applicant or his representative the reasons for not approving the application. Another Member suggested that the planning consideration in assessing application for Small House development could also be explained. Mr K.K. Ling, the Director of Planning, said that while DPO/STN could be requested to explain to them in more detail, there was a need to avoid giving a false hope that the sites they helped to identify would be approved by the Board. The Meeting agreed to request DPO/STN to explain to the applicant the planning consideration and rejection reasons for his Small House application in more detail.

38. After further deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the application does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area;
- (b) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in adverse impacts on the natural environment, infrastructure capacities and landscape character of the area; and
- (c) the cumulative effect of approving similar applications would pre-determine the land use zoning of the Outline Zoning Plan under preparation. ”

39. Members also agreed to request DPO/STN to explain to the applicant the planning consideration and rejection reasons for his Small House application in more detail.

[Mr Clarence W.C. Leung arrived to join the meeting at this point.]

Agenda Item 4

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/DPA/NE-TT/66

Proposed House (New Territories Exempted House – Small House) in Area designated as “Unspecified Use”, Government Land in D.D. 289, Ko Tong, Tai Po

(TPB Paper No. 10060)

[The item was conducted in Cantonese.]

40. The following representatives of the Planning Department (PlanD) and the applicant were invited to the meeting at this point :

Mr C.K. Soh - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr Wong Loy Sang - Applicant’s representative

41. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN, PlanD to brief Members on the review application.

42. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) on 21.5.2015, the applicant sought planning permission to build a house (New Territories Exempted House (NTEH) – Small House) at the application site (the Site) which fell within an area designated as “Unspecified Use” on the approved Tai Tan, Uk Tau, Ko Tong and Ko Tong Ha Yeung Development Permission Area (DPA) Plan No. DPA/NE-TT/2;
- (b) on 17.7.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
 - (i) the application did not comply with the Interim Criteria for Consideration of Application for New Territories Exempted

House/Small House in New Territories (Interim Criteria) in that the proposed development would cause adverse landscape impact on the surrounding area;

- (ii) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in adverse impacts on the natural environment, infrastructure capacities and landscape character of the area; and
 - (iii) the cumulative effect of approving similar applications would pre-determine the land use zoning of the Outline Zoning Plan (OZP) under preparation;
- (c) on 26.8.2015, the applicant applied for a review of the RNTPC's decision to reject the application. The applicant's justifications were :
- (i) the proposed development would not cause adverse impact on the landscape and natural environment as the applicant was willing to accept any conditions set by the Board;
 - (ii) the applicant undertook to use the footpath to the southeast of the Site for access and not to use the unauthorized track during construction;
 - (iii) the infrastructure capacities should not be an issue and the cumulative effect of approving similar applications would not pre-determine the land use zoning of the OZP under preparation, given that the application was similar to the granted building licenses to the west of the Site and the approved planning applications in Ko Tong; and
 - (iv) the Site fell wholly within the village 'environ' (VE) of Ko Tong and the applicant was indigenous villagers whose numerous previous Small House grant applications were rejected due to unsuitable location;
- (d) Small House applications - since the gazettal of the draft DPA Plan on 8.11.2013, a total of 79 similar applications within the "Unspecified

Use” area had been received (as at 5.1.2016). Among them, 64 had been considered by the RNTPC or withdrawn by the applicants, 15 cases were yet to be considered by the RNTPC. According to District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), there was a total of 120 outstanding Small House grant applications which fell within the “Unspecified Use” area, of which planning applications for 85 Small House were yet to be received;

- (e) previous application – the Site was not the subject of any previous application;
- (f) similar applications – there were 19 similar applications for proposed house (NTEH - Small House) within the same “Unspecified Use” area on the approved DPA Plan considered by the RNTPC. Thirteen applications were approved with conditions between November 2014 and April 2015 mainly on the considerations that more than 50% of the proposed Small House footprint fell within the ‘VE’ of the concerned village; there was insufficient land within the “V” zone of the concerned village to meet the Small House demand; the proposed Small House was not incompatible with the surrounding environment; significant landscape impact was not anticipated or concern on landscape impact could be addressed by approval condition, and concerned government departments had no objection on the application. The remaining 6 applications were rejected between May and July 2015 for the reasons of being not complying with the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas; and setting an undesirable precedent for other similar applications in the area. Two out of the 6 rejected planning applications were rejected also for the reasons that the cumulative effect would result in adverse impacts on the infrastructure capacities and pre-determine the land use zonings of the OZP under preparation;
- (g) planning intention - the general planning intention of the Area was to protect its high conservation and landscape value and the rural settings which complemented the overall naturalness and the landscape beauty of

the surrounding Sai Kung East and West Country Parks, and to reflect the existing recognized villages therein. A large portion of the Area was designated as “Unspecified Use” on the approved DPA pending detailed analysis and studies to establish the appropriate land uses in the course of the preparation of an OZP;

- (h) departmental comments - the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD maintained her objection to the application. The Site was located on a sloping ground within dense woodland. On-going woodland clearance within the Sites and surrounding area were found. The Director of Agriculture, Fisheries and Conservation (DAFC) maintained her reservation on the application from the nature conservation point of view. The proposed Small House might affect a number of native trees in the vicinity. The alternative access fell entirely on government land and most of it was wooded. DLO/TP, LandsD maintained his reservation on the application. The Site was accessible by an unauthorized track under land control action by his office. Approval would not be given to the applicant to form or disturb government land for the formation of alternative access;
- (i) public comments - a total of 438 public comments on the application were received. Forty-two public comments were submitted by green groups and Ko Tong Village Owners & Tenants Society and individuals, objecting to the review application mainly on the grounds of being not in line with the planning intention of the DPA Plan/ “Unspecified Use” area; causing adverse ecological, landscape and environmental impacts; setting set an undesirable precedent for other similar applications; having prior vegetation clearance within the Site and its surrounding area; absence of relevant technical assessments and proper access; insufficient provision of supporting facilities for additional houses; detailed planning of the OZP not yet completed; contravening the Convention on Biological Diversity; and possible abuse of the Small House Policy, etc. The remaining 388 comments were submitted by individuals supporting the review application mainly on the grounds of providing living spaces for villagers; being more environmentally friendly than the urban development; the

applicant being an indigenous villager; long waiting time for approval of Small House grant application; the Site being suitable for Small House development; no adverse impact to the surrounding environment; and presence of approved Small Houses nearby;

[Mr Frankie W.C. Yeung arrived to join the meeting at this point.]

- (j) PlanD's views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :
 - (i) the Site was situated on a vegetated hill slope and most of it had been cleared of vegetation. CTP/UD&L, PlanD maintained her objection and was concerned that approval of the application would set an undesirable precedent to encourage woodland clearance on government land prior to applications and to extend the village into the secondary woodland to the west of Ko Tong Village and the cumulative effect of approving similar applications would result in the general degradation of the woodland and cause adverse impacts on the landscape of the area. DAFC also maintained her reservation on the application from the nature conservation point of view;
 - (ii) the Site could be reached via an unauthorized track meandering on the wooded hill slope. DLO/TP, LandsD advised that there was on-going complaint against the unauthorized track and had reservation on the application as the applicant could not demonstrate how he could gain access to the Site. The alternative access proposed by the applicant was a track sloping down to the existing village cluster, which was indistinctive and difficult to walk on the vegetated slope and most of which was wooded;
 - (iii) the applicant claimed that the current application was similar to the granted building licenses and approved planning applications in Ko Tong. As advised by DLO/TP, LandsD, before the first gazettal of the draft DPA Plan on 8.11.2013, only one Small House grant application in the area to the west of the Site obtained Certificates of Exemption

(CoE) in December 2011. For the eight applications (No. A/DPA/NE-TT/11, 19 to 25) in Ko Tong approved with conditions by the RNTPC between February and April 2015, their circumstances were different from those of the current application in terms of accessibility and landscape impact;

(iv) in view of the large number of planning applications received and in anticipation of more forthcoming planning applications (as summarized in paragraph (d) above), the cumulative impacts of those Small House developments on the natural environment and infrastructure should be comprehensively considered in the OZP preparation process. Action was being taken to expedite preparation of the replacement OZP in which detailed analysis and studies to establish the appropriate land uses, including “V” zone suitable for Small House developments, would be undertaken; and

(v) as there had been no major change in planning circumstances for the Site and its immediate environs since the rejection of the application, there was no strong justification to warrant a departure from the RNTPC’s decision.

43. The Chairman then invited the applicant’s representative to elaborate on the review application. Mr Wong Loy Sang made the following main points:

- (a) the applicant had applied for a Small House development for more than 20 years but was refused by DLO/TP. He had recently identified the Site, the application of which was rejected; and
- (b) all the applicant requested was to build a Small House for him to live in.

44. As the presentation from PlanD’s representatives and the applicant’s representative had been completed, the Chairman invited questions from Members.

45. In response to a Member’s enquiry, Mr Wong said that over the years, he had identified 5 sites in the area as possible sites for Small House development.

46. As Members had no further questions to raise, the Chairman informed the applicant's representative that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/STN and the applicant's representative for attending the meeting. They left the meeting at this point.

Deliberation

47. The Chairman invited Members to consider the review application taking into account the written and oral submissions. Members noted that there was no change in the planning circumstances since the previous consideration of the subject application by the RNTPC, and as such it was likely that the RNTPC's decision to reject the application would be maintained.

48. A Member said that the current application and application No. A/DPA/NE-TT/64 just discussed under Item 3 were similar in terms of planning circumstances in that a number of Small House Grant applications were approved by DLO/TP prior to the gazettal of the DPA plan for the Area, while the two subject applications were submitted when the DPA plan was already in force. Both applicants might have difficulties in understanding the change in circumstances with the gazettal of the DPA plan and the planning consideration for not approving the Small House applications in the Area. Nevertheless, he considered that the Board should adhere to the established planning principles in assessing Small House application in the area, given the large number of outstanding and forthcoming planning applications. A Member concurred and said that similar to application No. A/DPA/NE-TT/64, DPO/STN could be requested to explain to the applicant the planning consideration and rejection reasons for his Small House application in more detail.

49. After deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the application does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed

development would cause adverse landscape impact on the surrounding area;

- (b) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative effect of approving such applications would result in adverse impacts on the natural environment, infrastructure capacities and landscape character of the area; and
- (c) the cumulative effect of approving similar applications would pre-determine the land use zoning of the Outline Zoning Plan under preparation. ”

50. Members also agreed to request DPO/STN to explain to the applicant the planning consideration and rejection reasons for his Small House application in more detail.

[Ms Anita W.T. Ma left the meeting at this point.]

Agenda Item 5

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-LT/546

Proposed House (New Territories Exempted House – Small House) in “Agriculture” Zone, Lot 1534 RP in D.D. 8, San Tong, Lam Tsuen, Tai Po

(TPB Paper No. 10061)

[The item was conducted in Cantonese.]

51. The Chairman, the Vice-chairman and Mr Frankie W.C. Yeung declared interests in the item as their properties were located in Tai Po district. As their properties were remote from the application site, Members agreed that they could stay in the meeting.

52. The following representatives of the Planning Department (PlanD) and the applicant were invited to the meeting at this point:

Mr C.K. Soh - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr Wan Wai Ming - Applicant's representative

53. The Chairman extended a welcome and explained the procedure of the review hearing. He then invited DPO/STN to brief Members on the review application.

54. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN presented the review application and covered the following main points as detailed in the Paper:

- (a) on 7.8.2015, the applicant sought planning permission to build a house (New Territories Exempted House (NTEH) - Small House) at the application site (the Site) which fell within the "Agriculture" ("AGR") zone on the approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11;
- (b) on 18.9.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
 - (i) 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 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;
 - (ii) the proposed development did not comply with the Interim Criteria for consideration of application for NTEH/Small House in the New Territories (Interim Criteria) in that more than 50% of the footprint of the proposed Small House fell outside the "Village Type Development" ("V") zone and the village 'environs' ("VE") of San Tong Village and there was no general shortage of land in meeting

the demand for Small House development in the “V” zone of San Tong;

- (iii) the proposed development did not comply with the Interim Criteria in that the applicant failed to demonstrate that the proposed development located within water gathering grounds would not cause adverse impact on the water quality of the area; and
 - (iv) land was still available within the “V” zone of San Tong which was primarily intended for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services;
- (c) on 27.10.2015, the applicant applied for a review of the RNTPC’s decision to reject the application. The applicant had not submitted any written representation in support of the review;
- (d) previous application – the Site was not the subject of any previous application;
- (e) similar applications – there were 26 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Fifteen applications were approved with conditions between 2001 and 2013 mainly for reasons of more than 50% of the proposed Small House footprint within ‘VE’/“V” zone, there was a general shortage of land within “V” zone of the concerned villages to meet the future Small House demand at the time of consideration; and specific circumstance/sympathetic consideration including being an in-fill development and/or subject to a previously approved application. The remaining 11 applications were rejected between 2004 and 2015 mainly on the grounds there was no shortage of land within “V” zone for Small House development; more than 50% of the proposed Small House footprint fell outside ‘VE’/“V” zone; the proposed development was not able to be connected to existing or planned sewerage system in the area;

and/or the applicant failed to demonstrate why suitable site within areas zoned “V” could not be made available for Small House development.

- (f) departmental comments – the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) did not support the application. The footprint of the proposed Small House fell wholly outside ‘VE’ of San Tong. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as there were active agricultural activities in the vicinity and the Site itself had high potential for rehabilitation of agricultural activities. The Director of Environmental Protection (DEP) did not support the application. The Site was in water gathering grounds (WGG) and outside the “V” zone, and the applicant would have to lay sewer pipes in the middle of the adjacent lot for sewer connection. However, no consent letter from the adjacent lot owners confirming the granting of access for construction and maintenance of sewer pipes was submitted. The Chief Engineer/Construction, Water Supplies Department (CE/C of WSD) maintained his objection to the application as the applicant had submitted no information to indicate that the Site could be connected to the planned sewerage system in the area and the wastewater generated from the proposed Small House would have the potential to cause water pollution to the WGG. The Commissioner for Transport (C for T) had reservation on the application as such type of development should be confined within the “V” zone as far as possible;
- (g) no public comments were received;
- (h) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :
 - (i) the Site fell entirely within the “AGR” zone on the OZP. The proposed Small House development was not in line with the planning intention of the zone. DAFC maintained his objection to the review application as there were active agricultural activities in

the vicinity and the Site itself had high potential for rehabilitation of agricultural activities;

- (ii) about 1.45 ha (or equivalent to about 58 Small House sites) of land were available within the “V” zone of San Tong for Small House development, which was sufficient to meet the future Small House demand of about 0.23 ha (or equivalent to about 9 Small House sites) in San Tong;
- (iii) the footprint of the proposed Small House fell entirely outside the “V” zone and ‘VE’ of San Tong, and DLO/TP, LandsD maintained his view of not supporting the application. The Site fell within the WGG, and DEP and CE/C of WSD objected to the review application as the applicant had not addressed the concern of sewerage connection planned in the vicinity. C for T had reservation on the application as such development should be confined within the “V” zone as far as possible;
- (iv) the 5 applications in the vicinity of the Site were approved between 2001 and 2013 on the grounds of having more than 50% of the proposed Small House footprint falling within ‘VE’/“V” zone, a general shortage of land within “V” zone of the concerned villages to meet the future Small House demand; and possibility to connect to the existing/planned sewerage system; and
- (v) as there had been no major change in planning circumstances for the Site and its immediate environs since the rejection of the application, there was no strong justification to warrant a departure from the RNTPC’s decision.

55. The Chairman then invited the applicant’s representative to elaborate on the review application. Mr Wan Wai Ming made the following main points:

- (a) in response to the rejection reasons, the applicant intended to connect the proposed Small House to the planned public sewerage, and undertake drainage works in the area. The Site was too small for agricultural use;

- (b) he did not understand how the boundary of the 'VE' was delineated. With reference to Plan R-2b of the Paper, the 'VE' of San Tong village included Lam Kam Road but not the Site. The Site also fell just outside the 'VE' of Chuen Shui Tseng village. The 'VE' of those two villages was not large while that of Tai Om village (to the further southeast of the Site) was very large;
- (c) the applicant was not an indigenous villager of the villages in the area and was difficult for him to acquire land. The application site was the only site he could identify in the area; and
- (d) the applicant had approached different departments which were not able to advise him on the appropriate steps to get an approval for the Small House development. He wished to know how he could proceed with his Small House development proposal if his application was not approved.

56. As the presentation from PlanD's representatives and the applicant's representative had been completed, the Chairman invited questions from Members.

[Professor P.P. Ho arrived to join the meeting at this point.]

57. The Chairman asked whether the applicant had already obtained the consent from the relevant land owners to lay his sewer pipes via their land to connect with the public sewerage. In response, Mr Wan said that he had confidence in obtaining the necessary written consent from the relevant land owners.

58. As Members had no further questions to raise, the Chairman informed the applicant's representative that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in his absence and inform the applicant of the Board's decision in due course. The Chairman thanked DPO/STN and the applicant's representative for attending the meeting. They left the meeting at this point.

Deliberation

59. The Chairman invited Members to consider the review application taking into account the written and oral submissions. Members noted that there was no change in the planning circumstances since the previous consideration of the subject application by the RNTPC, and as such it was likely that the RNTPC's decision to reject the application would be maintained.

60. Three Members said that there was no justification provided by the applicant in his oral submission for a departure of RNTPC's decision. A Member said that even if the sewerage of the proposed Small House could be connected with public sewerage, the application could not be approved as it was located outside 'VE'. Ms Bernadette H.H. Linn, the Director of Lands, said that as the site was outside 'VE', even if the planning application was approved by the Board, DLO/TP might have difficulty in approving the corresponding Small House Grant application.

61. After further deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the proposed development is not in line with the planning intention of the “Agriculture” 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;
- (b) the proposed development does not comply with the Interim Criteria for consideration of application for New Territories Exempted House (NTEH)/Small House in the New Territories in that more than 50% of the footprint of the proposed Small House fell outside the “Village Type Development” (“V”) zone and the Village environ of San Tong Village and there is no general shortage of land in meeting the demand for Small House development in the “V” zone of San Tong;

- (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 applicant fails to demonstrate that the proposed development located within water gathering grounds would not cause adverse impact on the water quality of the area; and
- (d) land is still available within the “V” zone of San Tong which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services.”

Agenda Item 6

[The item was conducted in Cantonese.]

Review of Application No. A/TP/592

Proposed House (New Territories Exempted House – Small House) in “Green Belt and Village Type Development” Zone, Lot No. 1436D & 1436RP in D.D. 11, Kau Shi Wai, Fung Yuen, Tai Po (TPB Paper No. 10062)

[Open Meeting (Presentation and Question Sessions only)]

62. The Chairman, the Vice-chairman and Mr Frankie W.C. Yeung declared interests in the item as their properties were located in Tai Po district. As their properties were remote from the application site, Members agreed that they could stay in the meeting.

63. The following representative of the Planning Department (PlanD), the applicant and the applicant’s representative were invited to the meeting :

Mr C.K. Soh - District Planning Officer/Shu Tin, Tai Po and North (DPO/STN), PlanD

Mr Suen Kam Wah - Applicant

Mr Suen Ting Chee - Applicant's representative

64. With the aid of a PowerPoint presentation, Mr C.K. Soh, DPO/STN, presented the review application and covered the following main points as detailed in the Paper:

- (a) on 14.8.2015, the applicant sought planning permission to build a house (New Territories Exempted House (NTEH) - Small House) at the application site (the Site) which fell within an area partly zoned "Village Type Development" ("V") and partly zoned "Green Belt" ("GB") on the Tai Po Outline Zoning Plan;
- (b) on 9.10.2015, the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board) decided to reject the application and the reasons were:
 - (i) 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 given in the submission for a departure from the planning intention of the "GB" zone;
 - (ii) the application did 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' (TPB PG-No. 10) in that the proposed development would affect the natural landscape of the area;
 - (iii) the proposed Small House development does not comply with the Interim Criteria for consideration of application for NTEH/Small House development in the New Territories (Interim Criteria) in that there was no general shortage of land in meeting the demand for Small House development in the "V" zone of Fung Yuen and the

proposed development would cause adverse landscape impact on the surrounding areas;

- (iv) land was still available within the “V” zone of Fung Yuen for Small House development. It was considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (v) the approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impact of approving such applications could result in a general degradation of the environment and landscape quality of the area;
- (c) on 28.10.2015, the applicant applied for a review of the RNTPC’s decision to reject the application. The applicant had not submitted any written representation in support of the review;
- (d) previous application – the Site was not the subject of any previous application;
- (e) similar applications – there were 4 similar applications for Small House development within the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. 2 applications were rejected mainly on the grounds that there was no general shortage of land in meeting the demand for Small House development in the “V” zone; and the applicants failed to demonstrate that the proposed developments would not be subject to adverse geotechnical impacts. Subsequently, 2 applications, covering the same sites except with minor revision to the site boundaries to incorporate septic tank systems, were rejected on 17.7.2015 on the grounds that there was no general shortage of land in meeting the demand for Small House development in the “V” zone;
- (f) departmental comments – the Chief Town Planner/Urban Design and Landscape (CTP/UD&L), PlanD maintained her strong reservations to the application. Most of the Site was located on a slope, slope cutting and

filling would be necessary for the proposed development. According to the submitted site formation plan, two extensive retaining walls were proposed along the north and south of the Site. The natural hill slope outside the Site would be disturbed by the extensive site formation works requiring removal of existing vegetation. However, no landscape measures were proposed to mitigate the adverse landscape impact due to the site formation works; and

- (g) public comments - 2 public comments from a green group and an individual were received. They objected to the application mainly on the grounds of not in line with the planning intention of “GB” zone and the TPB PG-No. 10; having adverse impacts on the visual, landscape and environment of the area; land was still available in the “V” zone for Small House development; and setting of undesirable precedent;
- (h) PlanD’s views - PlanD did not support the review application based on the planning considerations and assessments set out in paragraph 7 of the Paper which were summarized below :
 - (i) the Site was situated on a slope at the fringe of the “V” zone and largely covered by weeds. The applicant had proposed two extensive retaining walls along the north and south of the Site. The natural hill slopes outside the Site would be disturbed by the extensive site formation works with the existing vegetation to be cleared. The applicant had not proposed any landscape mitigation measures in the review application. CTP/UD&L, PlanD maintained her strong reservation on the application from landscape planning perspective;
 - (ii) the application did not comply 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 Fung Yuen and the proposed development would cause adverse landscape impact on the surrounding areas;
 - (iii) the application did not comply with the TPB PG-No. 10 in that the proposed development would affect the natural landscape of the area;

- (iv) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications could result in a general degradation of the environment and landscape quality of the area; and
- (v) as there had been no major change in planning circumstances for the Site and its immediate environs since the rejection of the application, there was no strong justification to warrant a departure from the RNTPC decision.

65. The Chairman then invited the applicant to elaborate on the review application. With reference to the speaking note shown on visualizer, Mr Suen Kam Wah made the following main points:

- (a) the applicant had worked in the United Kingdom for more than 30 years and would like to return to Hong Kong for retirement but did not have any accommodation;
- (b) his ancestor lived in A Shan village and his great-grandfather purchased a house at Kau Shi Wai of Fung Yuen in 1923 and the villagers had already recognized them as part of the villagers;
- (c) PlanD considered that 4.4 ha of land (equivalent to 177 Small Houses) could meet the future demand for 124 small houses. However, it did not take into account the male descendents of the villagers living in Fung Yuen for more than 90 years and those returned from overseas. Therefore, the demand for Small House site was far more than that could be accommodated within 4.4 ha, and the applicant wished that the Board could approve Small House development at the fringe of the “V” zone;
- (d) the 4.4 ha land of available for more Small House developments was not equally shared among the villages as they were controlled by the owners of those land;
- (e) there were precedent cases that the Government delineated “V” zone in Shuen Wan village and Ha Hang village, etc., and allowed those villagers without any land to purchase land in the zone. Such practice was not

found in Fung Yuen village. Small House development straddling over “V” zone and other zones in Fung Yuen had been approved recently. Even after the policy change in 2007, Small House development was still allowed in the “GB” zone at Lot no. 474 in DD 12; and

- (f) in the long run, allowing Small House development at sites straddling over “V” zone and other zones could avoid rezoning land in “GB” to “V” zone to meet the Small House demand. DLO/TP and other departments had no objection to the application. The applicant requested the Board to approve his application on the consideration that he had no land in the “V” zone.

66. As the presentation from PlanD’s representative and the applicant had been completed, the Chairman invited questions from Members.

67. In response to the enquiry of Ms Bernadette H.H. Linn, the Director of Lands, Mr Soh confirmed that the 10-year Small House demand forecast of 91 was provided by the Indigenous Inhabitant Representative of Fung Yuen to DLO/TP.

68. In response to a Member’s enquiry, Mr Suen Kam Wah said that he was aware that the proposed Small House development would require site formation and slope stabilization works for erecting the retaining walls.

69. As Members had no further questions to raise, the Chairman informed the applicant and his representative that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application in their absence and inform the applicant of the Board’s decision in due course. The Chairman thanked DPO/STN, the applicant and his representative for attending the meeting. They left the meeting at this point.

Deliberation

70. The Chairman invited Members to consider the review application taking into account the written and oral submissions. Members noted that there was no change in the planning circumstances since the previous consideration of the subject application by the

RNTPC, and as such it was likely that the RNTPC's decision to reject the application would be maintained.

71. The Vice-chairman said that as a recent case for zoning amendment of a "GB" site (to the further east of the Site) for residential use was not supported by the Board, the current application should not lightly be approved without very strong and exceptional justifications.

72. After deliberation, the Board decided to reject the application on review based on the following reasons :

- “ (a) the proposed development is not in line with the planning intention of “Green Belt” (“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 given in the submission for a departure from the planning intention of the “GB” zone;
- (b) the application 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 affect the natural landscape of the area;
- (c) the proposed Small House development does not comply with the Interim Criteria for consideration of application for New Territories Exempted House (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 “Village Type Development” (“V”) zone of Fung Yuen and the proposed development would cause adverse landscape impact on the surrounding areas;
- (d) land is still available within the “V” zone of Fung Yuen for Small House development. It is considered more appropriate to

concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and

- (e) approval of the application would set an undesirable precedent for similar applications in the area. The cumulative impacts of approving such applications would result in a general degradation of the environment and landscape quality of the area. ”

Agenda Item 7

[Open Meeting]

Request for Deferment of Review of Application No. A/TM/465

Proposed Columbarium in “Government, Institution or Community” Zone, G/F., Lot 1197 (Part) in D.D. 131, Tsing Shan Tsuen, Yeung Tsing Road, Tuen Mun

(TPB Paper No. 10063)

[The item was conducted in Cantonese.]

73. The Secretary reported that on 30.12.2015, the applicant wrote to the Secretary of the Board and requested the Board to defer making a decision on the review application for two months to allow more time for preparing further information. It was the first request from the applicant for deferment of the review application.

74. Members noted that the justifications for deferment met the criteria for deferment as set out in the Town Planning Board Guidelines on Deferment of Decision on Representations, Comments, Further Representations and Applications made under the Town Planning Ordinance (TPB PG-No.33) in that the applicant needed more time to prepare further information in support of the review application, the deferment period was not indefinite and the deferment would not affect the interests of other relevant parties.

75. After deliberation, the Board agreed to defer a decision on the review application as requested by the applicant pending the submission of further information by the applicant. The Board also agreed that the review application should be submitted to the Board for its

consideration within three months upon receipt of the further submission from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Board's consideration. The applicant should be advised that the Board had allowed two months for the preparation of the submission of further information, and no further deferment would be granted unless under very special circumstances.

Agenda Item 8

Any Other Business

76. There being no business, the meeting was adjourned at 11:15 am.