

**Minutes of 1206th Meeting of the
Town Planning Board held on 9.8.2019**

Present

Permanent Secretary for Development
(Planning and Lands)

Chairperson

Ms Bernadette H.H. Linn

Professor S.C. Wong

Vice-chairperson

Mr Lincoln L.H. Huang

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Mr Stephen H.B. Yau

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr Philip S.L. Kan

Dr Lawrence W.C. Poon

Mr K.K. Cheung

Mr Wilson Y.W. Fung

Mr Alex T.H. Lai

Dr Lawrence K.C. Li

Mr Stephen L.H. Liu

Professor T.S. Liu

Miss Winnie W.M. Ng

Mr Franklin Yu

Mr Stanley T.S. Choi

Mr L.T. Kwok

Mr Daniel K.S. Lau

Ms Lilian S.K. Law

Mr K.W. Leung

Professor John C.Y. Ng

Dr Jeanne C.Y. Ng

Professor Jonathan W.C. Wong

Mr Ricky W.Y. Yu

Chief Traffic Engineer (New Territories West),
Transport Department
Mr B.K. Chow

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Deputy Director of Environmental Protection (1)
Environmental Protection Department
Mr Elvis W.K. Au

Director of Lands
Mr Thomas C.C. Chan

Director of Planning
Mr Raymond K.W. Lee

Deputy Director of Planning/District
Miss Fiona S.Y. Lung

Secretary

Absent with Apologies

Mr H.W. Cheung

Dr Frankie W.C. Yeung

Dr C.H. Hau

Mr Thomas O.S. Ho

Ms Sandy H.Y. Wong

In Attendance

Assistant Director of Planning/Board

Ms April K.Y. Kun

Chief Town Planner/Town Planning Board

Mr Kepler S.Y. Yuen

Senior Town Planner/Town Planning Board

Mr Eric C.Y. Chiu

Agenda Item 1

[Open Meeting]

Confirmation of Minutes of the 1205th Meeting held on 26.7.2019

[The item was conducted in Cantonese.]

1. The minutes of the 1205th meeting held on 26.7.2019 were confirmed subject to revision to the second sentence of paragraph 62 to read "... in such ways that they would result in a cooler urban environment, adopting passive design, urban ecology (e.g. through planting), better water and waste management, less energy consumption, and lesser air-conditioning requirements, etc., HK could combat climate change better".

Agenda Item 2

Matters Arising

Discontinuance of Judicial Review Application (HCAL 979/2019) against the Decisions of the Chief Executive in Council and Town Planning Board in Respect of Approval of the Draft Central District (Extension) Outline Zoning Plan No. S/H24/8

[Open Meeting] [The item was conducted in Cantonese.]

2. The Secretary reported that further to the report to the Board on 26.4.2019 on a new application (HCAL 979/2019) for judicial review (JR) lodged by Mr Lester Shum in respect of the Central Military Dock, Mr Shum's legal representative submitted an application to the Court on 24.7.2019 to discontinue the JR proceedings. The Court granted leave for the discontinuance of the JR on 25.7.2019.

[Mr Franklin Yu, Mr Alex T.H. Lai, Mr Ricky W.Y. Yu, Miss Winnie W.M. Ng, Mr Ivan C.S. Fu, Mr K.W. Leung and Mr Thomas C.C. Chan arrived to join the meeting at this point.]

Sha Tin, Tai Po & North District

Agenda Item 3

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/NE-TK/663

Proposed House (New Territories Exempted House - Small House) in “Green Belt” Zone, Lot 612 S.D in D.D. 28, Tai Mei Tuk Village, Tai Po

(TPB Paper No. 10566)

[The item was conducted in Cantonese.]

3. The Secretary reported that the application site was located in Ting Kok and C K Lau Surveyors Ltd. (CKL) was one of the consultants of the applicant. The following Members had declared interests in the item;

Mr Stephen L.H. Liu - having past business dealings with CKL

Dr Lawrence W.C. Poon - co-owning with spouse a house in Lung Mei Tsuen, Ting Kok

4. Members noted that Dr Lawrence W.C. Poon had yet to arrive to join the meeting and agreed that as Mr Stephen L.H. Liu had no involvement in the application, he could stay in the meeting.

Presentation and Question Sessions

5. The representatives of Planning Department (PlanD) and the applicant’s representative were invited to the meeting at this point:

Mr Tony Y.C. Wu - District Planning Officer/Shan Tin, Tai Po and North (DPO/STN), PlanD

Ms Kathy C.L. Chan - Senior Town Planner/Tai Po (STP/TP), PlanD

Mr Leung Wai Kit - Applicant's Representative

6. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the review application.

7. With the aid of a PowerPoint presentation, Ms Kathy C.L. Chan, STP/TP, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Paper No. 10566 (the Paper).

8. The Chairperson then invited the applicant's representative to elaborate on the review application. With the aid of a PowerPoint presentation, Mr Leung Wai Kit, the applicant's representative, made the following points in support of the review application:

- (a) PlanD had overestimated the land available for Small House development in the "Village Type Development" ("V") zone. As demonstrated in the applicant's submission, many of the land within the "V" zone that was considered as available land for Small House development by PlanD, was actually being used as access roads and private gardens, located near major tree(s) or in odd-shape and hence not suitable for Small House development. PlanD had not taken the actual site situation into consideration when estimating the amount of land available within the "V" zone. Many of these examples had been provided in the applicant's written submission;
- (b) PlanD had also included a non-building area (NBA) along Ting Kok Road in its calculation. That NBA was required by relevant government department for Small Houses built along Ting Kok Road. Such area could not be used for Small House development;
- (c) while the Site fell within the "Green Belt" ("GB") zone, when the applicant acquired it in 2015 it had already been largely hard paved; and
- (d) the existing village clusters was located to the west of the Site whereas the

area to the east were mainly ponds and there was also a slope with dense vegetation. Therefore, the potential for Small House development to proliferate in the “GB” zone to the east of the Site was low. Approving the application would not set an undesirable precedent. Most of the relevant departments consulted had no adverse comment on the application.

9. As the presentations from PlanD and the applicant’s representatives had been completed, the Chairperson invited questions from Members.

[Mr Stanley T.S. Choi arrived to join the meeting at this point.]

10. The Chairperson and some Members raised the following questions:

- (a) whether there was sufficient land available for Small House development within the “V” zone after deducting the sites considered not suitable for Small House development as claimed by the applicant;
- (b) what the zoning of the area to the east of Ting Kok Road was as shown on Plan R-3 and whether it was within a country park. If affirmative, whether it would have any implication on PlanD’s planning assessment; and
- (c) clarification on the number of outstanding Small House applications at the s.16 application and s.17 review stages, and the number of sites available for Small House development as claimed by the applicant.

11. Mr Tony Y.C. Wu, DPO/STN, and Ms Kathy C.L. Chan, STP/TP, with the aid of some PowerPoint slides, made the following responses:

- (a) in estimating the land available for Small House development in “V” zone, PlanD had adopted a consistent approach and the possible area suitable for new Small House development was estimated by deducting the land occupied by existing village houses, road, steep slope, major tree clusters, sites with Small House applications already approved by the Lands Department (LandsD) etc. After discounting the above, a uniform rate of

40 houses per hectare (i.e. 250m² per house) was assumed. This uniform rate was derived based on the experience in planning for different “V” zones. The approach had been adopted consistently in estimating the availability of Small House sites in all “V” zones on Outline Zoning Plans. Considering the typical footprint of a Small House was 65.03m², the above uniform rate represented a site coverage of only about 26%. Sufficient allowance had been included to address the need for access road/emergency vehicular access, circulation space, local open space and other necessary supporting facilities. Regarding the applicant’s claim that some of the sites were not available for Small House development, it should be noted that land ownership could be subject to change and for those land currently being occupied by temporary uses, they could still be a source of land supply. The current land available within the “V” zone was sufficient to cater for the outstanding Small House applications;

- (b) the area to the east of Ting Kok Road as shown on Plan R-3b was not covered by any statutory plan and the area was adjacent to a country park. The “GB” zone where the application site was located served as a buffer between the “V” zone and the country park; and
- (c) the number of outstanding Small House applications at the s.16 application and s.17 review stages were 69 and 62 respectively. According to the applicant’s claim, after deducting the land not available for Small House development, land within the “V” zone could only accommodate 60 new Small House developments.

12. Mr Leung Wai Kit, the applicant’s representative, said that many of the sites within the “V” zone were fragmented and therefore not practical to be used for Small House development.

13. As Members had no further question, the Chairperson 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 and inform the applicant of the Board’s decision in due course. The Chairperson thanked the applicant’s representative and

PlanD's representatives for attending the meeting. They left the meeting at this point.

[Mr Stephen H.B. Yau arrived to join the meeting at this point.]

Deliberation Session

14. The Chairperson remarked that PlanD had adopted a broad brush approach in estimating the land available for Small House development within the "V" zone. Allowance had been made in the estimation for provision of access road, circulation space and other supporting facilities.

15. Two Members considered that there was no valid planning ground to justify approval of the review application. Notwithstanding the applicant's claim that land available in the "V" zone was only capable to accommodate 60 Small Houses which was not able to meet the 62 outstanding Small House applications, the applicant had failed to justify why some of the sites that appeared to be vacant and substantial in size could not be used for Small House development. Another Member said that PlanD's assumption of 40 house per hectare indeed had made sufficient allowance for the provision of supporting facilities in its estimation.

16. A Member noted that PlanD's estimation on land available within the "V" zone was made on a broad-brush manner and considered that, it might be useful if a more-detailed layout could be provided so that the Board and the applicant could have a better picture on the supply of land within the subject "V" zone. In this regard, the Chairperson said that since the development of Small House in the "V" zone was mainly under private initiative, there would be practical difficulty for PlanD to indicate the exact location and disposition of individual new Small Houses on a layout plan. A Member concurred and said that the estimation made by PlanD was aimed to give a general idea about the overall situation of land supply in "V" zone for Small House developments. It might not be necessary to examine the development potential of each site in detail.

17. A Member pointed out that the Board had adopted a cautious approach in recent years in considering Small House applications. In considering whether there was a general shortage of land in meeting Small House demand, more weighting had been put on the number of outstanding Small House applications provided by LandsD. It was noted that the 10-year

demand forecast was broad-brush in nature and the figures were subject to change from time to time. The Chairperson said that in assessing Small House applications, land availability was only one of the planning considerations and other factors such as planning intention and land use compatibility would also need to be duly considered.

18. Two Members noted that the Site, though fell within the “GB” zone, was paved and the applicant claimed that the Site had been in the current state since he purchased it in 2015. They considered that the Board should make clear to the public that the Board would not condone the “destroy first, build later” approach even if the Site was already damaged before the applicant acquired the land. The owner who purchased a piece of land that was “damaged” should bear the responsibility for remedial action, if required. In this regard, Mr Raymond K.W. Lee, Director of Planning, said that the Board had issued a press release in 2011 to state its position against the “destroy first, build later” approach and planning assessments for sites involving such situation should be made on the basis of the original, undamaged condition of the sites. Another Member expressed support for this approach and considered that proliferation of Small Houses into the “GB” zone would adversely affect the natural landscape. Small House development should be concentrated within the “V” zones for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

19. After deliberation, the Board decided to reject the application on review for the following reasons:

- “(a) the proposed development is not in line with the planning intention of the “Green Belt” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from this planning intention; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Lung Mei and Tai Mei Tuk which is primarily intended 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.”

Agenda Item 4

[Open Meeting]

Request for Deferment of Review of Application No. A/NE-TK/657

Proposed House (New Territories Exempted House - Small House) in “Agriculture” Zone, Lot 671 S.B in D.D. 15 and Adjoining Government Land, Shan Liu, Tai Po
(TPB Paper No. 10571)

[The item was conducted in Cantonese.]

20. The Secretary reported that the site was located in Ting Kok and Dr Lawrence W.C. Poon had declared an interest in the item for co-owning with spouse a house in Lung Mei Tsuen, Ting Kok. Members noted that Dr Poon had yet to arrive to join the meeting.

21. The Secretary reported that on 24.7.2019, the applicant’s representative wrote to the Secretary of the Town Planning Board (the Board) and requested the Board to defer making a decision on the review applications for two months to allow more time for preparation of further information in response to departmental comments. This was the second request for deferment for the review application

22. 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 to address departmental comments, the deferment period was not indefinite, and the deferment would not affect the interests of other relevant parties.

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

three months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the review application could be submitted to an earlier meeting for the Board's consideration. The Board also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information. Since it was the second deferment and a total of four months had been allowed for preparation of submission of further information, no further deferment would be granted unless under very special circumstances.

[Dr Lawrence W.C. Poon arrived to join the meeting at this point.]

Tuen Mun and Yuen Long West District

Agenda Items 5 and 6

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/TM-LTYT/362

Proposed House (New Territories Exempted House - Small House) in "Residential (Group E)" and "Village Type Development" Zones, Lots 190 S.D RP and 190 S.E in D.D. 130, San Hing Tsuen, Lam Tei, Tuen Mun

(TPB Paper No. 10569)

Review of Application No. A/TM-LTYT/363

Proposed House (New Territories Exempted House - Small House) in "Residential (Group E)" Zone, Lots 190 S.D ss.2 and 190 S.Q in D.D. 130, San Hing Tsuen, Lam Tei, Tuen Mun

(TPB Paper No. 10570)

[The items were conducted in Cantonese.]

24. Members agreed that as the two applications for a proposed house (New Territories Exempted House (NTEH)) each were similar in nature and the application sites (the Sites) were located in close proximity to one another and within the same "Residential (Group E)" ("R(E)") zone, the applications would be considered together.

Presentation and Question Sessions

25. The representatives of Planning Department (PlanD) and the applicants' representative were invited to the meeting at this point:

Mr David Y.M. Ng - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYLW), PlanD

Mr Keith C.H. Fung - Assistant Town Planner/Yuen Long West (ATP/YLW), PlanD

Mr Koo Yuk Hung - Applicants' Representative

26. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the two review applications.

27. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW, briefed Members on the background of the review applications including the consideration of the applications by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the TPB Papers No. 10569 and 10570 (the Papers).

28. The Chairperson then invited the applicants' representative to elaborate on the review applications. With the aid of a visualiser, Mr Koo Yuk Hung, the applicants' representative, made the following points in support of the two review applications:

- (a) similar application No. A/TM-LTYYY/301, located immediately adjacent to the Sites, was approved by the Board in 2016. He could not understand why the current applications were rejected by the RNTPC;
- (b) land within "Village Type Development" ("V") zone was extremely difficult to acquire. Many villagers were not willing to sell their vacant land as they wanted to leave the land for their future generations to build Small Houses; and

- (c) there was discrepancy between the boundaries of the “V” zone and village ‘environs’ (‘VE’) of San Hing Tsuen. The boundary of the “V” zone should be amended to tally with that of the ‘VE’.

29. As the presentations from PlanD and the applicants’ representatives had been completed, the Chairperson invited questions from Members.

30. The Chairperson and some Members raised the following questions to DPO/TMYLW:

Planning Intention and History of the “R(E)” Zone

- (a) the background for zoning the Sites as “R(E)”;
- (b) the planning intention of the “R(E)” zone, and whether planning permission for residential development would be granted only to sites with an existing industrial building/operation;
- (c) whether the subject “R(E)” zone was already under transformation into a residential neighborhood;
- (d) the development restrictions in “R(E)” zone, and whether development of NTEH would result in a higher total gross floor area (GFA);
- (e) whether there were other “R(E)” zones overlapping with ‘VE’ in the New Territories and whether similar Small Houses development had been approved in those areas;

Small House Developments

- (a) how the boundary of the 'VE' was drawn up;
- (b) the amount of land available for Small House development within the "V" zone and whether government land had been included, and the number of outstanding Small House grant applications;
- (c) whether there was any major planning concern on the proposed Small Houses, which were essentially residential developments, within the "R(E)" zone, and whether there had been a change in planning circumstances since the approval of the similar application No. A/TM-LTYYY/301;
- (d) whether there was any requirement for the applicant or any plan from the Government to provide access road in the "R(E)" zone to facilitate development; and
- (e) whether the proposed Small Houses could be connected to the public sewerage system.

31. Mr David Y.M. Ng, DPO/TMYLW, with the aid of a visualiser and some PowerPoint slides, made the following responses:

Planning Intention and History of the "R(E)" Zone

- (a) the area of the Sites were within the "Unspecified Use" area on the Lam Tei and Yick Yuen Development Permission Area Plan published in 1993. The area was then rezoned to "Industrial (Group D)" ("I(D)"), mainly to reflect the existing rural industrial operations (e.g. factories, warehouse and rural workshops) on the then Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYYY/1. In 2000, the Board revised the boundary of the "V" zone to meet the objections, and in order to address the interface issue between residential developments and the existing industrial operations, the "I(D)" zone, together with an adjacent area zoned "Undetermined", previously reserved for construction of West Rail, were

rezoned to “R(E)”;

- (a) the “R(E)” zone was intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. While existing industrial uses would be tolerated, new industrial developments were not permitted in order to avoid perpetuation of industrial/residential (I/R) interface problem. There was no requirement to grant planning permission for residential development only on sites with existing industrial operation;
- (b) the subject “R(E)” zone was mainly occupied by brownfield operations such as opens storage yards and workshops. The southern part of the “R(E)” zone was under study for public housing development (the Study). However, the Sites did not fall within the study boundary;
- (c) the Notes of the “R(E)” zone stipulated that development within the zone was subject to maximum plot ratio (PR) of 1, maximum site coverage (SC) of 40% and maximum building height (BH) of 4 storeys over a single-storey car park (15m) except for NTEH. The area of the Sites were 141.2m² and 124.6m² respectively and the maximum total GFA for residential development at the Sites under the “R(E)” zone would be 265.8m². In contrast, development of Small Houses in “R(E)” zone was not subject to the above-mentioned PR, SC and BH restrictions. A typical 3-storey Small House had a footprint of about 65m² i.e. a total GFA of about 195m² each house and 390m² for two Small Houses on the Sites. Compared with residential developments under the stated restrictions of the “R(E)” zone, development of two Small Houses could result in a higher GFA for the Sites;
- (d) there were four other “R(E)” zones, namely Tsuen Wan, Ho Chung, Lau Fau Shan and Kam Tin North, that overlapped with ‘VE’. The subject ‘R(E)’ zone was the only one that had received planning applications for Small House development;

Small House Developments

- (e) 'VE' was an land administrative boundary drawn up for the area within a 300-foot radius from the edge of the last village type house built in a recognised village before the introduction of the Small House Policy in 1972;
- (f) based on PlanD's estimation, about 21.46 hectare of land (equivalent to about 858 Small House sites) was available within the concerned "V" zone, of which 5.86 hectare was government land while the number of outstanding Small House applications as advised by LandsD was 128;
- (g) in terms of land use, the proposed Small Houses had no fundamental difference in nature compared to typical residential development and did not contravene the planning intention of the "R(E)" zone. While the similar application No. A/TM-LTYT/301 was approved in 2016, in considering the subject planning applications, the RNTPC considered that Small House development should be concentrated within the "V" zone as long as there was still land available for Small House development in "V" zone. It should be noted that the "Interim Criteria for Consideration of Application for NTEH/Small Houses in New Territories" was applicable to the subject applications and whether there was a general shortage of land in the "V" zone to meet Small House development was a relevant consideration;
- (h) on the concern for provision of access road within the "R(E)" zone, relevant departments, including Transport Department, would be consulted so as to ensure the development proposals would have suitable access arrangement and would not cause unacceptable traffic impact; and
- (i) Small Houses along San Hing Road could connect to the public sewer along the road. For the current applications, which were further away from San Hing Road, septic tank systems complying with Professional Persons Environmental Consultative Committee Practice Notes 5/93 were proposed.

32. Some Members asked the applicants' representative whether the applicants had explored the feasibility to develop the Sites under the development restrictions applicable to the "R(E)" zone, instead of developing two Small Houses. Mr Koo Yuk Hung, the applicants' representative, said that the applications were for development of two Small Houses for indigenous villagers. Based on his experience, residential development in compliance with

the development restrictions of the “R(E)” zone, was often in a large scale and mostly carried out by developers, rather than individual indigenous villagers. There had been no major change in planning circumstances since the approval of similar application No. A/TM-LTY/301 in 2016 and there was no strong ground for not approving the applications.

33. In response to some Members’ queries on restriction regarding transaction of Small Houses, Mr Thomas C.C. Chan, Director of Lands, said that if the site of an application for Small House grant was an Old Schedule Agricultural Lot located within the ‘VE’, the Small House would be granted by way of a building licence. If ownership of the Small House was transferred within the five-year alienation restriction period after the issue of Certificate of Compliance, application to the Lands Department (LandsD) was required and if approved, premium would be payable. After expiry of the five-year alienation restriction period, no application to LandsD was required for transaction of Small Houses.

34. As Members had no further question, the Chairperson informed the applicants’ representative that the hearing procedure for the review applications had been completed. The Board would further deliberate on the review applications and inform the applicants of the Board’s decision in due course. The Chairperson thanked the applicants’ representative and PlanD’s representatives for attending the meeting. They left the meeting at this point.

[The meeting was adjourned for a short break of 10 minutes.]

[Mr Alex T.H. Lai left the meeting at this point.]

Deliberation Session

35. The Chairperson said that in considering the review applications, Members should duly take into account that the nature of the proposed Small Houses did not contravene the planning intention of the “R(E)” zone and a similar application had been approved in 2016 after the cautious approach had been adopted.

36. Mr Raymond K.W. Lee, Director of Planning, said that the “R(E)” zoning was mainly to promote transformation of areas occupied by industrial operations into residential development upon application to the Board, provided that the concerns on I/R interface could

be satisfactorily addressed. Similar “R(E)” zone could also be found in other areas. For the subject “R(E)” zone in San Hing Tsuen, while maximum PR, SC and BH restrictions had been stipulated, NTEH development was not subject to those restrictions. When the applications were considered by RNTPC, PlanD had no objection to the applications, however, RNTPC considered that NTEH/Small House development should be concentrated within the “V” zone as there was plenty of land available for Small House development in the subject “V” zone.

Planning Intention

37. Some Members considered that the proposed Small Houses, which were residential in nature, were not materially different from other residential dwellings and the proposed Small Houses did not contravene the planning intention of the “R(E)” zone. One Member further said that compared to Small House applications in “Green Belt” or “Agriculture” zones, the current applications could be considered more favourably.

38. A Member said that the “V” zone was planned for Small House development by indigenous villagers, but the “R(E)” zone was not planned for that purpose. Two other Members considered that the planning intention of the “R(E)” zone was not for Small House developments but to phase out industrial operations. Permitting Small Houses to proliferate in the zone would defeat that intention. The Board should adopt a more cautious approach in considering Small House development outside “V” zone.

Catalyst Effect

39. Two Members considered that approval of the two applications for Small House development could provide a catalyst to kick start the process to phase out existing industrial operations in the “R(E)” zone. If there were more residential developments within the “R(E)” zone, it would reduce the potential I/R interface issue, further encouraging the replacement of industrial operations by residential dwellings.

40. A Member said that the Sites did not fall within the boundary of the proposed public housing development currently under study or any planned government project. Given that implementation of large-scale projects in the New Territories generally had a long

lead time, allowing the applications, which could be implemented in a relatively short time frame, might help speed up the transformation of the “R(E)” zone. Another Member considered that the approval of the applications could increase the supply of residential dwellings.

41. Two Members did not concur and considered that the development of two Small Houses would unlikely create any strong catalyst effect, and might in fact hinder comprehensive residential development in the “R(E)” zone in the future.

Supply of land in the “V” zone

42. Noting that there had been no major change in planning circumstances since the rejection of the applications by RNTPC and there was still ample land available for development of Small Houses in the “V” zone, two Members did not support approval of the applications. Two other Members concurred and said that the amount of land available within the “V” zone for Small House development (about 21.46 hectare and equivalent to about 858 Small House sites) far exceeded the number of outstanding Small House applications (128) being processed by LandsD. There was no strong reason to allow Small Houses development to proliferate within the “R(E)” zone and approving the applications would set an undesirable precedent effect. Another Member said that if more applications for Small Houses were approved in the “R(E)” zone, it would essentially turn the zone into an extension of the nearby village, contrary to the intention of concentrating Small House development in the “V” zone.

Housing Land Supply

43. Members noted that when application No. A/TM-LTY Y/301 was considered in 2016, there was sufficient land in “V” zone to meet the number of outstanding Small House applications but not the 10-year Small House demand forecast. The situation remained generally the same for the current applications.

44. A Member said that compared with the situation in 2016, the current shortage in housing land in Hong Kong was more acute and the Board should be more cautious in considering the current applications. Small House development should concentrate within

the “V” zone and land within “R(E)” zone, subject to further study, might have the potential for higher density residential development to alleviate the housing shortage. Another Member considered that there should be strategies to increase the overall housing supply, such as utilising brownfield sites, as outlined in the report published by the Task Force on Land Supply in 2016.

45. The Chairperson pointed out that as set out in paragraph 5.2.12 of the paper, a study on site formation and infrastructural works development at San Hing Road and Hong Po Road had commenced in 2017 to assess the feasibility of public housing development. It was a new circumstance that had to be taken into account in considering the current application as compared with application No. A/TM-LTYT/301 approved in 2016. Some Members considered that the review applications should not be approved as the Sites were located adjacent to the northern boundary of the proposed San Hing Road public housing development site. Approval of the applications would impose constraints to the potential public housing development since the exact boundary, phasing of development and land requirement were subject to further study. On the other hand, some Members considered that since the Sites were not identified for public housing development at this juncture, there was no strong reason to assume that they would hinder future public housing development.

46. As views of Members were divided, a vote was taken on the review applications. A majority of Members was in favour of rejecting the review applications.

47. After deliberation, the Board decided to reject the applications on review for the following reasons:

- “(a) land is still available within the “Village Type Development” (“V”) zone of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen where land is primarily intended for Small House development. It is considered more appropriate to concentrate Small House development close to the existing village cluster within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (b) the proposed development is in close proximity to the proposed public housing development currently under a feasibility study. Approval of the

application will impose constraints to the planning for the proposed public housing development.”

[Dr Jeanne C.Y. Ng arrived to join, and Dr Lawrence K.C. Li and Mr Stephen L.H. Liu left the meeting during the deliberation session.]

[Mr Lincoln L.H. Huang, Mr Ivan C.S. Fu, Mr Stephen H.B. Yau, Mr David Y.T. Lui, Mr Wilson Y.W. Fung, Mr Ricky W.Y. Yu, Mr Stanley T.S. Choi, Professor Jonathan W.C. Wong and Miss Winnie W.M. Ng left the meeting at this point.]

Agenda Item 7

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-PN/55

Temporary Animal Boarding Establishment for a Period of 3 Years in “Agriculture” Zone and an area shown as ‘Road’, Government Land in D.D. 135, Sheung Pak Nai, Yuen Long (TPB Paper No. 10567)

[The item was conducted in Cantonese.]

48. Members noted that a set of replacement pages, clarifying the public comments summarised in para. 6.1 (c) of the TPB Paper No. 10567 (the Paper) and the departmental comments at Annex H, was dispatched to Members prior to the meeting.

Presentation and Question Sessions

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

Mr David Y.M. Ng - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYLW), PlanD

Mr Ronald C.H. Chan - Assistant Town Planner/Tuen Mun (ATP/TM),

PlanD

Mr Dicky Lai]] Applicant's Representatives
Ms Pinky Kam]

50. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD's representatives to brief Members on the review application.

51. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the Paper.

52. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a visualiser, Mr Dicky Lai, the applicant's representative, made the following points in support of the review application:

- (a) the applicant "acquired" the Site in 2010 from an individual and there was a formal agreement for the transaction. Subsequently, the applicant learned that the Site was located on government land and he started to liaise with relevant departments including the Lands Department (LandsD) and Agriculture, Fisheries and Conservation Department (AFCD) since 2011 in order to regularise the structures and the animal boarding establishment (ABE) operation at the Site. Staff of LandsD had made a number of site inspections throughout the years and the applicant was advised to obtain necessary planning approval from the Board;
- (b) the applicant had donated dogs, including Doberman and German Shepherd, to the Hong Kong Police Force (HKPF) since 2014 and had received an appreciation letter from HKPF; and

- (c) the ABE was operating on a non-profit making basis. The dogs were donated, rather than sold, to different organisations. The dogs also participated in various activities such as visit to elderly homes and other public events. The applicant also donated money to organisations such as the University of Hong Kong.

53. As the presentation from PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

54. The Chairperson and some Members raised the following questions to DPO/TMYLW:

- (a) whether there was environmental complaint against the ABE at the Site;
- (b) why LandsD considered that the Site could be separately alienated;
- (c) whether there was concern from relevant government department on sewage treatment aspect and whether the technical concern on the septic tank and soakaway system and impact on the nearby stream could be addressed; and
- (d) whether the appreciation letter/certificate of appreciation from HKPF as shown by the applicant's representative had been provided to the Commissioner of Police (C of P) for verification.

55. Mr David Y.M. Ng, DPO/TMYLW, with the aid of some PowerPoint slides, made the following responses:

- (a) the Site was not the subject of any environmental complaint;
- (b) the Site abutted Nim Wan Road and was considered by LandsD capable for separate alienation. Generally speaking, LandsD would not normally consider application for regularisation of unlawful occupation of unleased government land that was capable for reasonable separate alienation, even if planning approval was given by the Board;
- (c) based on the site plan submitted by the applicant, the Director of

Environmental Protection (DEP) had concern from sewage treatment aspect as the Site was located only 11m away from the nearby stream. There was concern on whether the proposed septic tank and soakaway system could comply with the minimum clearance requirement as stipulated in Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PN) 5/93. Also, according to ProPECC PN 5/93, an Authorised Person should be appointed to carry out tests to demonstrate compliance with the requirement; and

- (d) the appreciation letter/certificate of appreciation from HKPF was only provided by the applicant in the review hearing, and therefore PlanD was unable to verify with C of P in this regard.

56. The Chairperson and some Members raised the following questions to the applicant's representatives:

- (a) the applicant's response regarding the concern of relevant department on environmental pollution;
- (b) as shown in the purchase agreement by the applicant's representative, it appeared that in 2010 the Site was covered by a number of temporary licences issued by LandsD. In this regard, whether the applicant had taken any action to verify the validity of those licences, and whether the applicant acquired the Site through a rental or purchase agreement;
- (c) noting the Site was situated entirely on government land, whether the applicant had applied for Short Term Tenancy (STT) from LandsD;
- (d) the applicant's explanation on C of P's comment that there was no record of dog donation by the applicant;
- (e) the source of finance of the ABE at the Site if it was running on a non-profit making basis;
- (f) whether there were any fruit trees on Site; and

- (g) whether the current ABE operation at the Site was subject to licensing by AFCD.

57. Mr Dicky Lai, the applicant's representative, made the following responses:

- (a) the ABE had been operating for more than 9 years and there had been no record of environmental complaint against the Site. The applicant had adopted suitable measures including septic tanks to prevent causing any pollution to the surrounding areas. Waste and dog excreta were packed and dumped at refuse collection point daily. There was also facility within the Site to convert the waste into organic fertiliser. If the Site was indeed a source of pollution, the nearby stream would have been polluted already. There was regular monitoring and testing of water quality of the stream by the Government and so far the water quality had been satisfactory. In fact, the nearby stream and pond were located at a level higher than the Site, therefore the chance for run-off from the Site to enter the stream and pond was very slim;
- (b) the applicant had not verified the validity of the licenses as shown on the agreement before he acquired the Site. Based on his understanding, those licences were for chicken sheds at the Site. He was aware that there were also two squatters at the Site;
- (c) the applicant had applied for regularisation of the ABE with LandsD in 2011 and 2013, however, the applications were either rejected or no reply was received. He had also approached AFCD in 2015 for assistance. In 2017, the applicant was advised by LandsD that planning permission from the Board should first be obtained;
- (d) the dogs donated to HKPF were previously registered under his own name rather than the applicant, which was a limited company. That could be the reason why the HKPF did not have any record of donation made under the name of the applicant;

- (e) the ABE used to operate in a site at Kowloon Peak before relocated to the Site. The ABE was operating on a non-profit making basis and funded by himself who was a dog breeding enthusiast. The applicant had submitted an application to set up a charitable institution. If the planning application was approved by the Board, the applicant would further explore ways to cooperate with HKPF regarding dog donation;
- (f) there were about 50 common fruit trees, such as *Clausena lansium*, located in the south-eastern part of the Site; and
- (g) according to the advice of AFCD, since the operation of the subject ABE did not involve a return of fee, it was not subject to licensing requirement from AFCD.

58. As Members had no further question, the Chairperson informed the applicant's representatives that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application and inform the applicant of the Board's decision in due course. The Chairperson thanked the applicant's representatives and PlanD's representatives for attending the meeting. They left the meeting at this point.

[Dr Lawrence W.C. Poon left the meeting during the Q&A session.]

Deliberation Session

59. A Member noted that according to the applicant there were more than 50 fruit trees at the Site and enquired whether the operation of the ABE, which involved keeping of dogs on a non-profit making basis, might be akin to "Agricultural Use". In this regard, the Chairperson clarified that the use under application was for an ABE.

60. Members noted that the Site fell within an "Agriculture" zone with potential for agricultural rehabilitation. A Member said that notwithstanding that the ABE was run on a non-profit making basis and that the applicant had made contributions to different institutions for charitable causes, the applicant had not provided sufficient information and justifications

in response to the rejection reasons given by the RNTPC. Members generally agreed that there was no strong planning ground to justify approval of the review application.

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

- “(a) the proposed development is not in line with the planning intention of the “Agriculture” (“AGR”) zone which is primarily to retain and safeguard good 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 justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the applicant fails to demonstrate that the proposed development would not cause adverse environmental impact on the surrounding areas; and
- (c) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications for other developments within the “AGR” zone, the cumulative effect of which will result in a general degradation of the rural environment.”

Agenda Item 8

[Open Meeting (Presentation and Question Sessions only)]

Review of Application No. A/YL-HTF/1092

Proposed Temporary Warehouse of Electric Spare Parts for a Period of 2 Years in “Agriculture” Zone, Lot 384 RP in D.D. 128, Deep Bay Road, Lau Fau Shan, Yuen Long
(TPB Paper No. 10568)

[The item was conducted in Cantonese.]

62. Members noted that a replacement page to Plan R-1 of the TPB Paper No. 10568 (the Paper), was dispatched to Members prior to the meeting.

Presentation and Question Sessions

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

Mr David Y.M. Ng - District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYLW), PlanD

Mr Ronald C.H. Chan - Assistant Town Planner/Tuen Mun (ATP/TM), PlanD

Mr George Mak]

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Ms Alky Choi] Applicant’s Representatives

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Mr Tam Ka Fai]

64. The Chairperson extended a welcome and explained the procedure of the review hearing. She then invited PlanD’s representatives to brief Members on the review application.

65. With the aid of a PowerPoint presentation, Mr David Y.M. Ng, DPO/TMYLW, briefed Members on the background of the review application including the consideration of the application by the Rural and New Town Planning Committee (RNTPC) of the Town Planning Board (the Board), departmental and public comments, and planning considerations and assessments as detailed in the Paper.

66. The Chairperson then invited the applicant's representatives to elaborate on the review application. With the aid of a PowerPoint presentation, Mr George Mak and Mr Tam Ka Fai, the applicant's representatives, made the following points in support of the review application:

- (a) the Site fell within the "Agriculture" ("AGR") zone and the coastline was located to the further north. The Site was located adjacent to the Hong Kong-Shenzhen Western Corridor. As seen from the aerial photo, there were a number of open storage yards in the vicinity and there was very limited agricultural activity in the area. Most of the relevant departments had no adverse comment on the application. Approval of the application would not set an undesirable precedent. Many applications for open storage uses had also been approved in "AGR" zones in Kam Tin area;
- (b) a supplementary Traffic Impact Assessment (the TIA) had been recently conducted. Due to time constraint, it had not been formally submitted to the Board before the meeting;
- (c) based on the current proposal, no medium or heavy goods vehicle would be used and the daily trip generation was very low. The number of trip adopted in the TIA was based on actual operational data of the applicant's company. Sufficient space would be provided within the Site for vehicle maneuvering, therefore, reversing or queuing of vehicles outside the Site on public road was not required. The TIA concluded that the traffic generated by the proposed development would not cause unacceptable traffic impact on Deep Bay Road;
- (d) the Site would only be used for storage of electric spare parts and no workshop activity would be carried out. The proposed development

would not cause air, noise, light and water pollution. The existing trees within the Site would be preserved and additional trees could be planted as required to mitigate any potential landscape impact; and

- (e) the Site had been used for open storage use since 1988. The applicant acquired the Site in 2017 and had removed all unauthorised building structures at the Site as required by the Government. The application was for a temporary planning permission of two years and no permanent structure would be constructed at the Site. If the application was approved, the applicant would comply with all approval conditions stipulated by the Board.

67. As the presentations from PlanD and the applicant's representatives had been completed, the Chairperson invited questions from Members.

68. The Chairperson and some Members raised the following questions:

- (a) whether the findings of the TIA as shown by the applicant's representatives in the meeting had been circulated to relevant departments for comment; and
- (b) noting that the Site had been hard-paved and unauthorised structures were previously erected, whether relevant government departments had required, besides clearing of those structures, reinstatement of the Site.

69. Mr David Y.M. Ng, DPO/TMYLW, made the following responses:

- (a) the information shown in the TIA had not been circulated to relevant departments for comment as the applicant had not submitted it to the Board before the meeting;
- (b) the Site was being used as a pigsty when the Ha Tsuen Interim Development Permission Area Plan was published in 1990. While the open storage use at the Site could not be considered as an "existing use",

there was no requirement from the Government for reinstatement of the Site.

70. The Chairperson invited the Secretary to explain the procedure for handling further information (FI) provided by the applicant. The Secretary said that according to Town Planning Board Guidelines No. 32 on “Submission of Further Information in Relation to Applications for Amendment of Plan, Planning Permission and Review” (TPB PG-No. 32), submission of FI should preferably be made at least one week before the scheduled meeting of the Board. The Secretary would then consider whether the FI submitted could be accepted and exempted from the publication requirements in accordance with TPB PG-No. 32. Generally speaking, FI resulting in material change to the application would not be accepted and new submission of technical assessments would need to be published for public inspection and comment. Departmental comments would also be sought as appropriate. For the current case, the TIA shown in the applicant’s presentation had not been submitted before the meeting. The Board could consider deferring consideration of the application so as to allow time to process the FI, including for the public and relevant departments to comment on the submission. Alternatively, the Board might disregard the information in the TIA in considering the application.

71. As Members had no further question, the Chairperson informed the applicant’s representatives that the hearing procedure for the review application had been completed. The Board would further deliberate on the review application and inform the applicant of the Board’s decision in due course. The Chairperson thanked the applicant’s representatives and PlanD’s representatives for attending the meeting. They left the meeting at this point.

Deliberation Session

72. The Chairperson remarked that the applicant had prepared a supplementary TIA in support of the review application. It might be more pragmatic to defer consideration of the application to allow time to process the FI, including seeking the public and relevant department’s comment on the TIA as traffic impact was one of the planning considerations of the Board. The Vice-chairperson and another Member concurred and said that it would be more prudent to defer consideration of the application.

73. Mr Raymond K.W. Lee, Director of Planning, said that alternatively, if the Board considered that the information in the TIA would not have material planning implication, the Board could continue to consider the application based on the information currently in hand. The Board should send a clear message to the public to discourage delaying tactics by making last-minute submission of substantial FI.

74. A Member noted that 8 parking spaces were proposed at the Site by the applicant and expressed doubt on the assumption of 6 daily vehicular-trips adopted in the TIA. Two Members considered that even if the concern on traffic could be addressed, the applicant had not properly addressed the concerns on planning intention and landscape impact. Another Member echoed this view and considered that land use compatibility should be the major planning consideration in the current case. Nevertheless, Members considered that it would be more prudent to seek the comments from relevant departments on the TIA submitted by the applicant at the meeting so as to ascertain the traffic impact of the proposed development.

75. After deliberation, the Board agreed to defer a decision on the review application so as to allow time to process the supplementary TIA which was submitted at the meeting.

Agenda Item 9

[Open Meeting]

Any Other Business

[The item was conducted in Cantonese.]

76. There being no other business, the meeting was closed at 2:15 p.m.