

TOWN PLANNING BOARD

**Minutes of 313th Meeting of the
Rural and New Town Planning Committee held on 14.10.2005**

Present

Director of Planning
Mr. Bosco C.K. Fung

Chairman

Mr. Michael K.C. Lai

Vice-chairman

Mr. Alex C.W. Lui

Mr. C.K. Wong

Professor Nora F.Y. Tam

Mr. David W.M. Chan

Mr. Edmund K.H. Leung

Mr. Alfred Donald Yap

Assistant Director (2), Home Affairs Department
Ms. Margaret Hsia

Assistant Director (Environmental Assessment),
Environmental Protection Department
Mr. Elvis W.K. Au

Assistant Director/New Territories, Lands Department
Mr. Francis Ng

Deputy Director of Planning/District
Miss Ophelia Y.S. Wong

Secretary

Absent with Apologies

Professor K.C. Ho

Mr. Francis Y.T. Lui

Ms. Carmen K.M. Chan

Dr. Lily Chiang

Professor David Dudgeon

Professor Peter R. Hills

Mr. Tony C.N. Kan

Dr. C.N. Ng

Assistant Commissioner for Transport/New Territories,
Transport Department
Miss Cindy Law

In Attendance

Assistant Director of Planning/Board
Mr. P.Y. Tam

Chief Town Planner/Town Planning Board
Ms. Brenda K.Y. Au

Town Planner/Town Planning Board
Ms. Paulina L.S. Pun

Agenda Item 1

Confirmation of the Draft Minutes of the 312th RNTPC Meeting held on 23.9.2005

[Open Meeting]

1. The draft minutes of the 312th RNTPC meeting held on 23.9.2005 were confirmed without amendments.

Agenda Item 2

Matters Arising

[Open Meeting]

(i) Town Planning Appeal Decision Received

Town Planning Appeal No. 24 of 2003

Proposed New Territories Exempted House (NTEH) (Small House)

in “Green Belt” and “Village Type Development” zones

Lot 4A in DD 230, Sheung Sze Wan, Sai Kung

(Application No. A/DPA/SK-CWBS/2)

2. The Secretary reported that the Town Planning Appeal Board (TPAB) on 25.11.2003 received an appeal against the decision of the Town Planning Board (the Board) on 5.9.2003 to reject an application (No. A/DPA/SK-CWBS/2) for a Small House at a site zoned “Green Belt” (“GB”) (87%) and “Village Type Development” (“V”) (13%) on the Clear Water Bay Peninsula South Development Permission Area (DPA) Plan. The appeal was heard by the TPAB on 27.6.2005 and 28.6.2005. On 3.10.2005, the appeal was allowed by the TPAB on the following grounds :

- (a) the proposed Small House development would not be in serious conflict with the planning intention of the “GB” zone. It would not involve extensive clearance of vegetation nor affect the existing natural landscape;
- (b) the area surrounding the appeal site was designated for Small House development. The proposed development would not have much adverse visual impact on the surrounding environment and existing landscape;

- (c) although the proposed development would not comply with criteria (a) and (b) of the interim criteria for assessing planning applications for NTEH/Small House development in the New Territories, it would meet other relevant criteria; and
- (d) the approval would not set a bad precedent for similar applications. Each case should be considered on its own merits and there were a number of special features in this case. The zone division line between the “V” and “GB” zones was drawn on some rather arbitrary basis and did not follow either the road or the contour of the landscape. The Appellant had made his application to the District Lands Office for building licence in 1996 before the publication of the DPA Plan in 2002. There was no pending application involving land which straddled the “V” and “GB” zones and it was unlikely that there could be any similar application in future; and

3. The Secretary said that a summary of the appeal and the TPAB’s decision were tabled at the meeting for Members’ reference. The Chairman added that the case had been discussed at the Metro Planning Committee in the morning and it was agreed that there would be a need to review the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories to take account of the TPAB’s decision. The Secretariat would review the Interim Criteria and report back to the Committee in due course.

(ii) New Town Planning Appeal Received

Town Planning Appeal No. 20 of 2005

Temporary Container Vehicle Park and Ancillary Repairing Activities
for a Period of 3 Years in “Undetermined” zone

Lots 105RP(Part), 106RP(Part), 107, 108(Part), 109, 110(Part),

111(Part), 112-116, 118, 119(Part), 120(Part), 124(Part), 127, 128 and 158(Part) and
Adjoining Government Land in DD 122,

Ping Shan, Yuen Long

(Application No. A/YL-PS/207)

4. The Secretary reported that TPAB on 30.9.2005 received an appeal against the decision of the Board on 22.7.2005 to reject on review an application (No. A/YL-PS/207) for a temporary container vehicle and ancillary activities for a period of 3 years at a site zoned “Undetermined” (“U”) on the approved Ping Shan Outline Zoning Plan (OZP). The hearing date was yet to be fixed. The Secretariat would represent the Board to deal with the appeal.

(iii) Appeal Statistics

5. The Secretary said that as at 14.10.2005, 23 cases were yet to be heard by the TPAB. Details of the appeal statistics were as follows :

Allowed	:	14
Dismissed	:	81
Abandoned/Withdrawn/Invalid	:	111
Yet to be Heard	:	23
Decision Outstanding	:	1
Total	:	230

Sai Kung and Sha Tin District

[Mr. Philip Y.L. Chum, Senior Town Planner/Sai Kung and Sha Tin (STP/SK&ST), was invited to the meeting at this point.]

[Mr. C.K. Wong arrived to join the meeting at this point.]

Agenda Item 3

Section 16 Application

[Open Meeting (Presentation and Question Session only)]

A/ST-KYS/7 One Proposed House
 (New Territories Exempted House) (NTEH) (Small House)
 in “Agriculture” zone,
 Lot 82 in DD 192, Kong Pui Tsuen, Kwung Yam Shan,
 Sha Tin
 (RNTPC Paper No. A/ST-KYS/7)

Presentation and Question Session

6. Mr. Philip Y.L. Chum, STP/SK&ST presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (NTEH)(Small House);
- (c) departmental comments – highlighting that the Water Supplies Department and the Environmental Protection Department objected to the application as the application site was located within the water gathering grounds (WGGs) where public sewers were not available, and there was no information in the submission to demonstrate that the proposed Small House would be able to be connected to the existing or planned sewerage system in the area;
- (d) no public comments were received within the 3-week statutory period and there was no local objection. One public comment received after the statutory period should be treated as not having been made; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons detailed in paragraph 11.1 of the Paper in that the proposed Small House did not comply with the interim criteria for assessing planning application for NTEH/Small House development; it was not in line with the planning intention of the “Agriculture” zone; and there was still land available within the “Village Type Development” (“V”) zone for Small House development.

7. Questions raised by the Members were :

- (a) clarification on the amount of land available for Small House development in this area; and

- (b) how the applicant could demonstrate to the satisfaction of the Committee that land was not available within the “V” zones of his own village and other recognized villages for Small House development as stated in paragraph 11.1(c) of the Paper.

8. In reply, Mr. Philip Y.L. Chum made the following points :

- (a) about 0.33 ha of land was required to meet the estimated 10-year Small House demand of Kong Pui Tsuen for 10 Small House sites. However, only 0.17ha (or equivalent to about 5 Small House sites) of land was currently available within the “V” zone of the village. While the land available could not fully meet the longer term 10-year Small House demand, there was still land remaining in the “V” zone which could be used. The intention was to concentrate NTEH/Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services in this remote location; and
- (b) the applicant should explain why he could not use the land still available within the “V” zones in Kong Pui Tsuen and other recognized villages in the Sha Tin District. Such information had not been provided in the application.

Deliberation Session

9. The Chairman remarked that the main concern was that the application site fell within the WGGs and there was no information to demonstrate that the proposed Small House could be connected to the existing or planned sewerage system in the area. A Member pointed out that a previous application (No. A/ST-KYS/6) at the application site was rejected by the Committee in March 2005. There had been no change in circumstances for a departure from the previous decision. Other Members agreed.

10. In response to a Member’s suggestion, the Chairman said that papers on similar applications could be improved to clearly present information on the amount of land available

within the “V” zone for NTEH/Small House developments, and whether there was sufficient land to meet the outstanding Small House applications and 10-year Small House demand.

11. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” zone which was primarily to retain and safeguard good quality agricultural land/farm for agricultural purposes. No strong justifications had been provided in the submission to merit a departure from the planning intention; and
- (b) the proposed Small House did not comply with the interim criteria for assessing planning application for New Territories Exempted House/Small House development in the New Territories in that the proposed Small House was not able to be connected to the existing or planned sewerage system in the area. There was insufficient information in the submission to demonstrate that the proposed development, which was located within the water gathering grounds, would not cause adverse impact on water quality in the area.

[The Chairman thanked Mr. Philip Y.L. Chum, STP/SK&ST, for his attendance to answer Members’ enquiries. Mr. Chum left the meeting at this point.]

Tuen Mun and Yuen Long District

[Mr. Wilson Y.L. So, District Planning Officer/Tuen Mun and Yuen Long (DPO/TMYL), and Mr. Frederick S.T. Ng, Senior Town Planner/Tuen Mun and Yuen Long (STP/TMYL), were invited to the meeting at this point.]

Agenda Item 4

Section 16 Applications

[Open Meeting (Presentation and Question Session only)]

- (i) A/TM-LTY Y/130 Temporary Dump Truck Park and
 Ancillary Self-service Repair Workshop
 for a Period of 3 Years
 in “Village Type Development” zone,
 Lot 3866B in DD 124, Shun Tat Street,
 Tuen Mun
 (RNTPC Paper No. A/TM-LTY Y/130)
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Presentation and Question Session

12. Mr. Frederick S.T. Ng, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary dump truck park and ancillary self-service repair workshop;
- (c) departmental comments – the Environmental Protection Department did not support the application in view of potential environmental nuisances caused to the nearby residential buildings by the heavy vehicular traffic attracted to the application site and the operation of the proposed use; and other concerned Government departments had no adverse comments on the application;

- (d) no public comments and no local objection were received; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons detailed in paragraph 11.1 of the Paper in that the development was not in line with the planning intention of the “Village Type Development” zone and not compatible with the residential character of the surrounding areas; and the applicant had not provided information to demonstrate that the development would not cause adverse drainage and environmental impacts on the surrounding areas.

13. Members had no question on the application.

Deliberation Session

14. Members noted that a previous application (No. A/TM-LTY/125) at the application site for temporary heavy vehicle park was rejected by the Committee in March 2005. Members considered that such uses would cause environmental problems to the surrounding areas.

15. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development was not in line with the planning intention of the “Village Type Development” (“V”) zone which was to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone was primarily intended for development of Small Houses by indigenous villagers. There was no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
- (b) the development was not compatible with the residential dwellings in the surrounding areas; and

- (c) there was no information in the submission to demonstrate that the development would not have adverse environmental and drainage impacts on the surrounding areas.

[Open Meeting (Presentation and Question Session only)]

- (ii) A/YL-KTN/238 Temporary Open Storage of Vehicles
for a Period of 3 Years
in “Village Type Development” zone,
Lot 466RP(Part) in DD 109,
Kam Tin Road, Kam Tin,
Yuen Long

(RNTPC Paper No. A/YL-KTN/238)

Presentation and Question Session

16. Mr. Frederick S.T. Ng, STP/TMYL, updated Members with the information that a similar application (No. A/YL-KTN/225) was approved by the Board on review on 7.10.2005.

17. Mr. Frederick S.T. Ng then presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary open storage of vehicles;
- (c) departmental comments – the Environmental Protection Department did not support the application in view of adverse environmental nuisances generated by the development to the nearby sensitive receivers. The Transport Department also considered that there were already closely spaced run-ins on the subject road section and the proposed development would pose road safety problems. The other concerned Government departments generally had no objection to or no adverse comments on the application;

- (d) one public comment was received raising concerns on adverse traffic, safety and environmental impacts; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons detailed in paragraph 12.2 of the Paper in that the development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses No. 13C; the development was not in line with the planning intention of the “Village Type Development” (“V”) zone; the applicant had not demonstrated effort to relocate to alternative sites; and there were adverse departmental comments on the application.

18. In response to the Chairman's enquiry on various similar applications, Mr. Wilson Y.L. So, DPO/TNYL, made the following points :

- (a) application No. A/YL-KTN/225 involved temporary open storage of vehicles for a period of 3 years on a site at some distance to the east of the current application site. That application site fell within the “V” zone and Category 4 areas under the Town Planning Board Guidelines No. 13C. There had been previous approvals, and the application was approved for one year by the Board on review on 7.10.2005 as it was considered that the construction of the residential development to the north of that site was yet to commence and additional time could be allowed for relocation to another site;
- (b) the areas adjoining the current application site to the west and east had also been the subject of several similar applications. Applications No. A/YL-KTN/171 and 173 for temporary open storage of vehicles were approved in June 2003 for one year. Although there were concerns on the scale of development and unsatisfactory vehicular access arrangements, the Committee considered that Kam Tin Bypass was still under construction then and no New Territories Exempted House/Small House had been developed in the surrounding areas. In July 2004, permissions for these

applications were extended for one year (Applications No. A/YL-KTN/196 and 197 respectively) to allow the applicants time for relocation. Subsequently on 23.9.2005, further extension of the permissions (Applications No. A/YL-KTN/236 and 237 respectively) sought were rejected as the Committee considered that it was not the planning intention to allow the continuous operation of such temporary uses in the “V” zone; and

- (c) the current application site was also the subject of six previous applications and the last one (Application No. A/YL-KTN/201) was approved in August 2004 for a period of one year to allow the applicant time for relocation.

Deliberation Session

19. The Chairman said that application No. A/YK-KTN/225, which was approved by the Board on review, was different from the current application in terms of the site location, vehicular access and development of the surrounding areas. Applications No. A/YL-KTN/236 and 237, which had recently been rejected by the Committee, were more similar and closer to the current application.

20. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the development did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that residential dwellings which were located to its close proximity would be susceptible to adverse environmental nuisances generated by the development; and
- (b) the continual occupation of the site for temporary open storage use was not in line with the planning intention of the “Village Type Development” zone which was to designate both existing and recognized villages and areas of land considered suitable for village expansion. There was no information in the submission to demonstrate that relocation to alternative sites could not be made.

[Open Meeting (Presentation and Question Session only)]

- (iii) A/YL-NTM/187 Temporary Storage of Durable and Consumer Goods for a Period of 3 Years in “Comprehensive Development Area” zone, Various Lots in DD 104 and Adjoining Government Land in DD 104, Chuk Yau Road, Ngau Tam Mei, Yuen Long
(RNTPC Paper No. A/YL-NTM/187)
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Presentation and Question Session

21. Mr. Frederick S.T. Ng, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary storage of durable and consumer goods;
- (c) departmental comments – the Environmental Protection Department did not support the application in view of the on-site and off-site environmental nuisances. The Transport Department (TD) commented that in view of strong local concerns on adverse traffic impact, the application should not be processed further before the issue was addressed. The Drainage Services Department considered that a drainage impact assessment was needed. The other concerned Government departments generally had no objection to or no adverse comments on the application;
- (d) two public comments were received objecting to the application on the grounds of increased traffic congestion and risk of traffic accidents on Chuk Yau Road, adverse environmental impacts and flooding problem; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for the reasons detailed in paragraph 11.1 of the Paper in that

the development was not in line with the planning intention of the “Comprehensive Development Area” zone; it was not compatible with the nearby residential dwellings and rural character of the nearby village settlements; two previous planning applications at the application site were rejected and there was no change in planning circumstances; and there were environmental complaints and adverse departmental comments.

22. Members had no question on the application.

Deliberation Session

23. In response to the Chairman’s remark, Mr. Wilson Y.L. So, DPO/TMYL, said that there were strong local complaints in this area. As stated in paragraph 9.1.2 of the Paper, the TD pointed out that the locals along Chuk Yau Road raised strong concerns on the environmental and traffic impacts arising from the heavy vehicles running on the road. On the public comments received, the San Tin Rural Committee and the Yau Tam Mei Tsuen Old Aged and Welfare Association were concerned about the adverse traffic and environmental impacts along Chuk Yau Road.

24. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed development was not compatible with the residential dwellings and village settlements in the surrounding area; and
- (b) there was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental, traffic and drainage impacts on the surrounding area.

[Mr. Alex C.W. Lui arrived to join the meeting at this point.]

[Open Meeting (Presentation and Question Session only)]

- (iv) A/YL-PH/507 Temporary Restaurant
for a Period of 3 Years
in “Village Type Development” zone,
Lots 2008(Part), 2009(Part), 2010(Part), 2011(Part),
2012(Part), 2013(Part) and 2018A(Part) in DD 111,
Wang Toi Shan, Pat Heung,
Yuen Long
(RNTPC Paper No. A/YL-PH/507)
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Presentation and Question Session

25. Mr. Frederick S.T. Ng, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary restaurant;
- (c) departmental comments – no adverse comments from concerned Government departments were received;
- (d) no public comment and no local objection were received; and
- (e) the Planning Department (PlanD)’s views – PlanD had no objection to the application for reasons detailed in paragraph 12.1. of the Paper, but a shorter approval period of 12 months was recommended.

26. Questions raised by the Chairman and Members were :

- (a) whether the application was for restaurant or canteen use, and whether a licence was required for the applied use;
- (b) clarification was sought on the operating hours of the restaurant;

- (c) whether the applicant sought permission on a temporary basis of 12 months or 3 years; and
- (d) whether the applicant had been operating the applied use for 10 years without planning permission.

27. In reply, Mr. Wilson Y.L. So, DPO/TMYL, made the following points :

- (a) the applicant applied for restaurant use at the application site. According to the comments of the Food and Environmental Hygiene Department as stated in paragraph 10.1.10 of the Paper, a restaurant licence was required for the applied use;
- (b) as stated in the application form, the applicant claimed that the operating hours of the restaurant were from 9:00 a.m. to 5:30 p.m.;
- (c) the applicant had applied for a permission for 3 years, but a short approval period of 12 months was recommended by the PlanD in order to monitor the development and the fulfillment of approval conditions; and
- (d) the restaurant had been operating without planning permission in the past. An application for temporary restaurant use had previously been submitted by the applicant in 2001 but was subsequently withdrawn.

Deliberation Session

28. The Chairman remarked that there were no objections from concerned Government departments and no public comment was received.

29. In response to a Member's enquiry, the Chairman said that there were many situations in which uses were continued without planning permission. Enforcement action was prioritized to deal with cases causing environmental problems first.

30. In consideration of a planning permission granted for a similar application (No. A/YL-PH/456) for a period of 3 years, a Member suggested that the same approval period could be granted to the current application. Noting that there had not been local complaints against the restaurant use in the past, other Members agreed.

31. After deliberation, the Committee decided to approve the application on a temporary basis for a period of 3 years up to 14.10.2008, on the terms of the application as submitted to the Town Planning Board and subject to the following conditions :

- (a) the daily operation of the development was restricted from 9:00 a.m. to 5:30 p.m., as proposed by the applicant;
- (b) the submission of a tree preservation proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 14.4.2006;
- (c) in relation to (b) above, the implementation of the tree preservation proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 14.7.2006;
- (d) the submission of a drainage proposal within 6 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.4.2006;
- (e) in relation to (d) above, the provision of drainage facilities as proposed within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.7.2006;
- (f) if the planning condition (a) above was not complied with at any time during the planning approval period, the approval hereby given should cease to have effect and should be revoked immediately without further notice; and

- (g) if any of the above planning conditions (b), (c), (d) or (e) was not complied with by the specified date, the approval hereby given should cease to have effect and should on the same date be revoked without further notice.

32. The Committee also agreed to advise the applicant to :

- (a) the District Lands Officer/Yuen Long, Lands Department's comments that Government reserved the right to take lease enforcement against any unauthorised structures on site;
- (b) the Chief Building Surveyor/New Territories West, Buildings Department's comments that all building works were subject to compliance with Buildings Ordinance. Authorised Person must be appointed to coordinate all building works. The granting of this planning approval should not be construed as condoning any structures existing on the site under the Buildings Ordinance and the allied regulations. Actions appropriate under the said Ordinance or other enactments might be taken if contravention was found;
- (c) the Assistant Commissioner for Transport/New Territories, Transport Department's comments that the applicant should check with the lands authority on the land status of the road/path/track leading to the site from Kam Tin Road. The applicant should also clarify the management and maintenance responsibilities of the same road/path/track, and consult the relevant lands and maintenance authorities accordingly;
- (d) the Chief Highway Engineer/New Territories West, Highways Department's comments that Highways Department was not responsible for the maintenance of any vehicular access leading to the application site;
- (e) the Chief Engineer/Development (2), Water Supplies Department (WSD)'s comments that for provision of water supply to the development, the applicant might need to extend water service connection from the site to

nearest government water mains. The applicant should resolve any land matters (e.g., traversing private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the water services within the private lots to the WSD's standards; and

- (f) the Director of Food and Environmental Hygiene's comments that a restaurant licence issued by his Department was required if food business was carried out at the location.

[Open Meeting (Presentation and Question Session only)]

- (v) A/YL-TT/186 Temporary Open Storage of Construction Materials with Ancillary Container-Converted Site Office for a Period of 3 Years in "Agriculture" zone, Lots 1427-1431 and 1539 in DD 118, Tai Tong, Yuen Long
(RNTPC Paper No. A/YL-TT/186)
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Presentation and Question Session

33. Mr. Frederick S.T. Ng, STP/TMYL, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed temporary open storage of construction materials with ancillary container-converted site office;
- (c) departmental comments – the Agriculture, Fisheries and Conservation Department did not support the application as the application site had the potential to be rehabilitated for agricultural purposes and approval of the current application would set an undesirable precedent for similar uses to

proliferate into the “Agriculture” (“AGR”) zone. The Drainage Services Department had grave concern as it was not demonstrated that the proposed development would not generate adverse drainage impact on the surrounding areas. The Environmental Protection Department also raised concerns on the potential degradation of the rural character and potential environmental nuisance caused by the proposed development. Other concerned Government departments had no adverse comment on the application;

- (d) no public comment and no local objection were received; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application for reasons detailed in paragraph 12.2 of the Paper in that the proposed development was not in line with the planning intention of the “AGR” zone; it was incompatible with the surrounding rural land uses and hence did not comply with the Town Planning Board Guidelines No. 13C for Application for Open Storage and Port Back-up Uses; no similar application had been approved in the same “AGR” zone and approval of the application would set an undesirable precedent; and there were adverse departmental comments.

34. Questions raised by the Chairman and Members were :

- (a) clarification was sought on the decisions of other similar applications in the area; and
- (b) whether there was any land not yet occupied within the “Open Storage” (“OS”) zone to the northwest of the application site.

35. In reply, Mr. Wilson Y.L. So, DPO/TMYL, made the following points :

- (a) no similar applications for temporary open storage/warehouse/workshop uses had been approved in this part of the “AGR” zone. Consideration of Application No. A/YL-TT/184 had been deferred; and

- (b) Plan A-3 of the Paper showed that part of the adjacent “OS” zone was occupied by open storage uses but there should be some land still available. There was also an “Undetermined” zone to the further north which might be put to open storage uses.

Deliberation Session

36. The Chairman said that the Committee had been consistent in consideration of similar applications in this district and there was no strong justification for a departure from such consideration. Members agreed.

37. After deliberation, the Committee decided to reject the application and the reasons were :

- (a) the proposed development was not in line with the planning intention of the “Agriculture” (“AGR”) zone which was intended primarily to retain and safeguard good quality agricultural land for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification had been given in the submission to justify for a departure from the planning intention, even on a temporary basis;
- (b) the proposed development did not comply with the Town Planning Guidelines for Application for Open Storage and Port Back-up Uses in that it was considered incompatible with the surrounding rural land uses with residential structures and fallow agricultural land and that no previous planning approval had been granted for open storage use on the site and there were adverse departmental comments on the application;
- (c) there was insufficient information in the submission to demonstrate that the proposed development would not generate adverse environmental, drainage and landscape impacts on the surrounding areas; and

- (d) approval of the application would set an undesirable precedent for other similar uses to proliferate into this “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

[The Chairman thanked Mr. Wilson Y.L. So, DPO/TMYL, and Mr. Frederick S.T. Ng, STP/TMYL, for their attendance to answer Members’ enquiries. Messrs. So and Ng left the meeting at this point.]

Tai Po and North District

[Mr. W.K. Hui, District Planning Officer/Tai Po and North (DPO/TPN), and Dr. Kenneth S.S. Tang, Senior Town Planner/Tai Po and North (STP/TPN), were invited to the meeting at this point.]

Agenda Item 5

Section 16 Applications

[Open Meeting (Presentation and Question Session only)]

- (i) A/NE-KLH/341 Proposed New Territories Exempted House
(NTEH) (Small House)
in “Agriculture” zone,
Lot 856A in DD 9,
Yuen Leng Village, Kau Lung Hang,
Tai Po

(RNTPC Paper No. A/NE-KLH/341)

Presentation and Question Session

38. Dr. Kenneth S.S. Tang, STP/TPN, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed New Territories Exempted House (NTEH) (Small House);
- (c) departmental comments – the Environmental Protection Department and Water Supplies Department did not support the application as the application site fell within the water gathering grounds (WGG) and could not be connected to any existing or planned sewerage system, while other concerned Government departments had no objection to the application;
- (d) two public comments were received raising concerns on the possible blockage of an existing footpath and contamination of a fresh water well by the proposed development; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application for the reasons detailed in paragraph 11.1 in the Paper in that the application site fell within the WGG and there was no information to demonstrate that the proposed development would not cause adverse impact on water quality in the area; and concerned departments did not support the application. As such, the proposed development did not comply with the interim criteria for assessing planning application for NTEH/Small House development in the New Territories (the Interim Criteria).

39. Members had no question on the application.

Deliberation Session

40. The Chairman remarked that in endeavouring to protect the water quality of the WGGs, the Board had set down in the Interim Criteria that applications for NTEH/Small House developments within the WGGs would need to be connected to the existing or planned sewerage system. Approval of such applications might set an undesirable precedent for similar applications.

41. In response to some Members' enquiries on the similar applications in the area, Mr. W.K. Hui, DPO/TPN, said that except for Applications No. A/NE-KLH/304, 328 and 339, all planning permissions for applications for NTEH/Small House developments in the area were granted before the Interim Criteria was revised in 2002 to incorporate the relevant criterion relating to WGGs. Referring Members to Plan A-1 of the Paper, he briefed Members on the background of various similar applications as follows :

- (a) Application No. A/NE-KLH/328 was in close proximity to the current application site. It was the subject of a previous application (Application No. A/NE-KLH/273) approved by the Committee in 4.5.2001, but the approval expired on 4.5.2004. Application No. A/NE-KLH/328 was submitted about 6 months after the expiry and it was approved by the Committee based on sympathetic consideration on 17.12.2004. Both Applications No. A/NE-KLH/273 and 328 were submitted by the same applicant;
- (b) Applications No. A/NE-KLH/304 and 339 fell partly within the "Village Type Development" ("V") zone and could meet the Interim Criteria. They were approved by the Committee on 21.2.2003 and 29.7.2005 respectively;
- (c) Application No. A/NE-KLH/321 was rejected by the Board on review in 2004 and it did not involve any previous application;
- (d) the current application was also the subject of a previous application (No. A/NE-KLH/107) approved in 1996. However, the planning approval expired on 15.11.1998. Unlike Application No. A/NE-KLH/328, the applicant in the current application was different from that of the previous approved application.

42. In response to a Member's enquiry, Mr. W.K. Hui said that only the area within the "V" zone could be connected to the future public sewerage system. Both the current application site and that of Application No. A/NE-KLH/328 fell outside the "V" zone and could not be connected.

43. The Chairman asked whether there was any similarity between the current application and Town Planning Appeal No. 24 of 2003 which was allowed by the Town Planning Appeal Board (TPAB) as reported earlier in the meeting. The Secretary said that while the application site of the appeal case fell partly within “V” zone and partly within “Green Belt” zone, the current application site fell entirely within the “AGR” zone and was within WGGs.

44. The Secretary continued to say that both the current application and Application No. A/NE-KLH/328 involved infill sites between existing NTEH/Small House developments. Two similar applications in other districts involving infill sites had been recently approved, despite non-compliance with the Interim Criteria.

45. Members considered that although the current application site fell within the WGGs, the circumstances of the current application were similar to those of Application No. A/NE-KLH/328. The local concerns on possible contamination of a fresh water well and blockage of a footpath were technical issues which could be resolved separately. Based on the history of case and the existing situation around the application site, sympathetic consideration could be given to the current application in view of its special circumstances.

46. After deliberation, the Committee decided to approve the application, on the terms of the application as submitted to the Town Planning Board. The permission should be valid until 14.10.2009, and after the said date, the permission should cease to have effect unless before the said date, the development permitted was commenced or the permission was renewed. The permission was subject to the following conditions :

- (a) the submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the connection of the foul water drainage system to public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board;

- (d) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (e) the provision of adequate space for the existing footpath to pass over the application site for public access purpose to the satisfaction of the Director of Lands or of the Town Planning Board.

47. The Committee also agreed to advise the applicant to :

- (a) the actual construction of the proposed Small House should only begin after the completion of the public sewerage network;
- (b) adequate space should be provided for the proposed Small House to be connected to the public sewerage network; and
- (c) the “Code of Practice on Working near Electricity Supply Lines” should be observed when carrying out works in the vicinity of electricity supply lines. Prior to establishing any structure within the application site, the applicant and his contractors should liaise with CLPP to divert the concerned cables away from the vicinity of the proposed development.