

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-KLH/556**

<b><u>Applicant</u></b>	Mr WAI Tze Pong represented by Spence Robinson Limited
<b><u>Site</u></b>	Lots 644 S.A, 644 S.B, 644 RP, 643B S.A RP, 643B S.B and 643B RP in D.D. 9, Yuen Leng Village, Tai Po, New Territories
<b><u>Site Area</u></b>	About 1,217.7m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Proposed Five Houses (New Territories Exempted Houses) (NTEHs)

**1. The Proposal**

- 1.1 The applicant, being one of the two owners of the application site (the Site), seeks planning permission to build five houses (NTEHs) on the Site, which falls within an area zoned “AGR” on the approved Kau Lung Hang OZP No. S/NE-KLH/11(**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed five NTEH development are as follows:
- |                                  |   |
|----------------------------------|---|
| Total domestic GFA :             | 941.521m <sup>2</sup>   |
| Plot ratio :                     | 0.773   |
| No. of storeys :                 | 3   |
| Building height :                | 8.23m   |
| Roofed over area of each house : | not more than 65.03m <sup>2</sup>                             |
| No. of car parking spaces:       | 4 private car parking spaces and<br>1 loading/unloading space |
- 1.3 According to the applicant, the uncovered area of the Site will be used as circulation area and parking spaces.

- 1.4 The site location plan, Master Layout Plan, floor plans, section plan and Emergency Vehicular Access (EVA) Exemption Diagram of the proposed development submitted by the applicant are shown in **Drawings A-1 to A-6** respectively.
- 1.5 In support of the application, the applicant has submitted application form dated 4.9.2018 and the attachments (**Appendix I**).

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They are summarized as follows:

- (a) the change of use of the Site from agricultural to low-density residential development is in line with the current policy to encourage better utilization of land for more residential development;
- (b) the current land use is agriculture. The proposed low-rise NTEHs consists of 3 storeys, with an area of 700 sq ft each. They are compatible with their neighborhood in terms of height, scale and disposition;
- (c) the existing storage sheds on site will be replaced by the proposed residential development. It is an enhancement to the overall image of the area;
- (d) the traffic load generated from the proposed development is insignificant. Moreover, public light bus services are available. The Site is fronting a public road which is over 4.5m wide. A minibus stop (Route No. 25B) is located in the north of the site along Tai Wo Service Road West within 600m walking distance from the Site. Besides, there is a bus stop (Routes No. 73, 73A, 74D, 373 and N73) at Nam Wa Po, which is only 100m away from the Site. It is on the opposite side of Fanling Highway and can be accessed via a footbridge. The pavement of the public road is about 2m wide which is convenient for pedestrian access;
- (e) four private car parking spaces and one loading/unloading space will be provided within the Site. Access can be made directly from the public road. Maneuvering space is provided so that the backing of vehicles is not necessary;
- (f) no soakaway is needed as government sewerage is available. Therefore, environmental impact is minimized. Use of the Site is generally residential which is the current use in the vicinity. No wildlife exists in the vicinity. Noise, dust and other environmental mitigation measures will be in place during construction to reduce environmental impacts to meet current regulations;
- (g) street hydrant is within 20m as shown in survey map. As the number of houses within 30m circle of neighborhood does not exceed nine, no EVA is required. A minimum separation of 3m has been provided between each building;
- (h) only 2 Lychee trees, 3 Longan trees, 1 Star Fruit tree and 1 Jack Fruit tree will be fell. There are no valuable trees on site. The existing well will be preserved for future landscape irrigation. Full topographic and tree survey will be conducted in the detailed design stage. A landscape plan will be proposed for the Site for approval by relevant government department;

- (i) utilities available includes electricity, water supply and government drainage. There are public stormwater and sewerage manholes along the fronting public road for future connection of drainage discharge from the proposed development. Water and electricity supplies are available for the proposed uses; and
- (j) refuse collection facility is available within walking distance in the vicinity of the Site.

### 3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is one of the two “current land owners”. He has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from another current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

### 4. **Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering ground (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

### 5. **Previous Application**

There is no previous application at the Site.

### 6. **Similar Applications**

- 6.1 There are 101 similar applications for NTEH/Small House development within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**). Among them, eight applications (No. A/NE-KLH/245, 259, 273, 277, 279, 281, 283 and 284) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Since then, 65 applications were approved (including one partially approved application) and 28 applications were rejected.
- 6.2 There are 48 applications for Small House development (No. A/NE-KLH/304, 310, 311, 328, 339, 341, 343 – 347, 351, 352, 368, 370, 372, 375, 378, 379, 397, 400, 403, 406, 407, 409, 410, 415 – 417, 426, 432, 433, 438, 442, 450, 459, 467, 469 – 473, 481, 482, 487, 488, 491 and 494) approved between 2003 and 2015 before the adoption of a more cautious approach by the Board. These applications were approved mainly on the considerations of being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the ‘VE’; there was a general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone at the time of consideration; the proposed development was able to be connected to the planned sewerage system; the application site was the subject of a previously approved case; and/or the proposed

house was considered as an infill development.

- 6.3 After that, 15 applications for Small House development (No. A/NE-KLH/503, 504, 519, 523, 529 – 531, 533, 535, 540 – 542 and 553-555) were approved with conditions by the Committee between 2016 and 2018 on sympathetic consideration. While land was still available within the “V” zone for Small House development, applications No. A/NE-KLH/503, 504, 523, 529, 530, 531, 535, 541, 542 and 553-555 were approved mainly because the application sites were the subject of previous approval whereas applications No. A/NE-KLH/519, 533 and 540 were approved mainly because the proposed house was considered as an infill development.
- 6.4 Application No. A/NE-KLH/358 for four Small Houses was partially approved with conditions by the Committee on 23.3.2007. Two proposed Small Houses were approved for being in compliance with the Interim Criteria in that more than 50% of the footprint of proposed Small Houses locating within the ‘VE’; there was a general shortage of land in meeting the demand for Small House development in the “V” zone; and being able to be connected to the planned sewerage system. The other two proposed Small Houses were rejected mainly because they were not able to be connected to the existing or planned sewerage system in the area. Subsequently, application No. A/NE-KLH/527 being the subject of the approved portion of application No. A/NE-KLH/358, was approved by the Committee on 12.5.2017 mainly on sympathetic consideration as there was previous approval from the same applicant.
- 6.5 There are 27 applications for Small House development (No. A/NE-KLH/300, 303, 312, 314, 315, 333, 334, 361, 380, 430, 439 – 441, 443, 444, 455, 478, 479, 483, 484, 521, 526, 537, 538, 544, 546 and 549) rejected by the Committee or the Board on review between 2002 and 2018 mainly on the grounds of not being able to be connected to the planned sewerage system in the area as there was no fixed programme for implementation of such system at that juncture. Applications No. A/NE-KLH/440 and 441 were also rejected on the grounds that the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas. For applications No. A/NE-KLH/521, 526, 537, 538, 544, 546 and 549 rejected by the Committee or the Board on review between 2017 and 2018, one of the rejection reasons was that land was still available within “V” zone for Small House development and it was considered more appropriate to concentrate the proposed Small House within “V” zone. In addition, application No. A/NE-KLH/483, being the subject of Town Planning Appeal No. 8 of 2015, was dismissed by the Town Planning Appeal Board on 1.9.2016 mainly on the same rejection reasons of the application by the Board on review.
- 6.6 Application No. A/NE-KLH/404 for six NTEH development was rejected by the Committee on 16.6.2010 mainly on the grounds of not in line with the planning intention of “AGR” zone; adverse landscape impact; adverse impact on water quality in the area; adverse noise impact generated by the EAL nearby; and setting undesirable precedent.
- 6.7 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

7. **The Site and the Surrounding Areas** (Plans A-1, A-2 and photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) located at the western fringe of Yuen Leng Village;
- (b) paved and fenced off with fence wall and is occupied with three temporary structures as shelters, two other structures with gross floor area of 50.11m<sup>2</sup> for storage/ temporary accommodation and trees;
- (c) entirely outside the village 'environs' ('VE') of Yuen Leng, Kau Lung Hang Lo Wai and San Wai;
- (d) within the upper indirect WGG; and
- (e) accessible by a road.

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding areas are predominantly rural in character occupied by village houses, fallow agriculture fields and some temporary structures;
- (b) village houses are mainly found to the east of the Site in Yuen Leng Village;
- (c) the MTR East Rail Line (EAL) and Fanling Highway are located about 20m and 60m on the west respectively; and
- (d) a streamcourse flowing from northeast to southwest is located about 20m to the west of the Site.

**8. Planning Intention**

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

**9. Comments from Relevant Government Departments**

Land Administration

9.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) objects to the application;
- (b) Lots 644 S.A. 644 S.B, 644 RP, 643B S.A RP, 643B S.B and 643B RP in D.D. 9 are all under block government lease demised for agricultural use. There is a strip of Government land lying between the Site and the road and there is no right of vehicular access under lease over such Government land;

- (c) a Modification of Tenancy Permit No. 38855 and a Letter of Approval No. 6017 have been issued by DLO/TP to allow the erection of 6 temporary domestic and agricultural structures on the mother lot of Lots 644 S.A, 644 S.B, 644 RP in D.D. 9;
- (d) LandsD generally would only consider NTEH development for (i) existing lease of 'building' lot with no specifically prohibiting NTEH and there is no increase in the number of NTEH; or (ii) land grant under the New Territories Small House Policy;
- (e) the proposed development will contravene the agricultural use under lease conditions. If the application is approved, the owner should apply to LandsD for a land exchange. If the application for land exchange is approved by LandsD in the capacity as landlord at his sole discretion, it will be subject to such terms and conditions including the payment of premium and incorporation of no exempt building clause. However, he stresses that there is no guarantee that the approval to such land exchange will be given;
- (f) no application for land exchange has been received; and
- (g) the Site falls outside the village 'environs' ('VE') of Yuen Leng Village.

### Environment

#### 9.2 Comments of the Director of Environmental Protection (DEP):

- (a) does not support the application because:
  - (i) the Site falls completely outside the "V" zone, within water gathering ground (WGG), and the application does not contain any information to demonstrate the proposed NTEHs would be able to be connected to existing/planned sewerage system in the area; and
  - (ii) the proposed development would be subject to significant railway noise impact if not duly mitigated, and the application does not contain any information to demonstrate compliance with the Noise Control Ordinance (Cap. 400) (NCO) and Hong Kong Planning Standards and Guidelines (HKPSG) requirements from noise perspective;
- (b) the Site falls within "AGR" zone, and is within WGG. While it is stated in the application that "there are public stormwater and sewage manholes along the fronting public road for future connection of drainage discharge from the proposed development", the applicant has not provided any sewerage connection proposal;
- (c) the planned public sewer to serve the Site is part of the Yuen Leng village sewerage, which was degazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption. Currently there is no fixed timetable for implementing the said sewerage scheme. Alternatively, there is an existing public sewer at about 10m to the west of the Site (**Plan A-2**). If the applicant proposes to connect to the said sewerage, the applicant should provide a sewerage connection proposal in

support of the application, and views from Drainage Services Department should be sought, in particular on potential conflict with an existing underground drainage pipe;

- (d) the proposed houses are located at about 30m and 60m from the EAL and Fanling Highway respectively. In view of the close proximity to the rail line, the development will be subject to significant rail noise impact if not duly mitigated. EPD's cursory check indicated that the exposed facades at the proposed houses, in particular those western and southern facades of noise sensitive rooms having line of sight to the EAL, would be subject to noise levels exceeding relevant rail noise criteria. The application should contain noise impact assessment and provision of noise mitigating design/ measures to demonstrate compliance with the NCO and HKPSG requirements. The applicant should also clarify whether the proposed five houses will be completed in one go; and
- (e) regarding road traffic noise, it is understood that roadside noise barriers at the concerned section of the highway are being constructed under the Widening Project of Tolo Highway/Fanling Highway between Island Interchange and Fanling to protect those village developments closer to the road. Given this as well as the design/measures required to address the railway noise, no insurmountable traffic noise impact would be anticipated.

#### Water Supply

9.3 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) objects to the application; and
- (b) the Site is located within upper indirect gathering grounds and is less than 30m away from the nearest water course. The footprints of the proposed NTEHs are 100% within the "AGR" zone and outside the 'VE'. According to the Interim Criteria, the development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved.

#### Drainage

9.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the proposed development from public drainage point of view. If the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (b) while there are DSD's public stormwater drains in this area, the proposed houses should have their own stormwater collections and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. Any existing flow path affected should be re-provided. The proposed development should neither obstruct overland flow

nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicant/owner should maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner should also be liable for and indemnify claims and demands arising out of damage or nuisance caused by failure of the systems. Furthermore, the new system will not be managed nor maintained by DSD;

- (c) there are DSD's public sewers in the vicinity of the developments, with a stud pipe reserved for the Site at manhole No. FMH1040353 (**Plan A-2**). In addition, to ensure the sustainability of the public sewerage network, the applicant is required to demonstrate to the satisfaction of DSD in such manner that the runoff within the Site will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network. For this purpose, the applicant/owner is required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system; and
- (d) the applicant should take all precautionary measures to prevent any disturbance, damage, and pollution from the development to any parts of the existing drainage facilities in the vicinity of the Site. In the event of any damage to the existing drainage facilities, the applicant should be responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom. For works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owners should be sought.

9.5 Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD):

- (a) according to the proposed sewerage scheme under North District Sewerage, Stage 2 Phase 1 for Yuen Leng Village, public sewerage connection point will be provided in the vicinity of the Site. However, since this sewerage scheme was degazetted on 29.10.2010, there is no fixed programme at this juncture for the implementation of the concerned sewerage works; and
- (b) notwithstanding the above, the proposed sewerage scheme might be fine-tuned in the course of finalizing the design. DSD will keep all relevant village representatives posted while finalizing the design. It is understood that, subject to actual construction of the public sewerage being in sufficient proximity to the boundary of a land lot, DEP may require the lot owners at his/her own cost to make proper sewer connection from his/her premises to the public sewerage and to decommission the private sewer, septic tank and soakaway pit.

Landscape

9.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application from the landscape planning point of view;



- (b) the Site is situated in an area of rural landscape character comprising of scattered tree groups, car parks and village houses. Although the proposed development is not in line with the planning intention of “AGR” zone, it is not incompatible with the surrounding environment;
- (c) the Site is generally hard paved and fenced off with fence wall and is occupied with three temporary structures. Nineteen existing fruit trees including *Averrhoa carambola* (楊桃), *Artocarpus heterophyllus* (菠蘿蜜), *Citrus x aurantium* (柑), *Clausena lansium* (黃皮), *Dimocarpus longan* (龍眼), *Litchi sinensis* (荔枝), *Mangifera indica* (杧果), *Morus alba* (桑) and *Prunus persica* (桃) are recorded scattered within the Site. Two saplings of *Aquilaria sinensis* (土沉香), a protected species under Cap 586, are recorded at the southeast of the Site. Referring to the submitted Layout Plan, only one existing *Artocarpus heterophyllus* (菠蘿蜜) and *Mangifera indica* (杧果) located at the southeast and one *Citrus x aurantium* (柑) at the northern corner of the Site are proposed to be retained. Adverse impact on significant landscape resources from the proposed development is anticipated. Nonetheless, there is available space within the Site for a landscape proposal to mitigate the adverse impact;
- (d) should the application be approved, approval conditions on the submission and implementation of landscape proposal are recommended; and
- (e) detailed comments are at **Appendix IV**.

### Traffic

#### 9.7 Comments of the Commissioner for Transport (C for T):

- (a) in general, he has reservation on the application. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, he considers that the application only involves development of five houses can be tolerated on traffic grounds.

#### 9.8 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CE/NTE, HyD):

- the section of Tai Wo Service Road East abutting the Site is not maintained by HyD.

### Agriculture

#### 9.9 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- the Site is occupied by existing buildings. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as water supply and road access is available. The Site possesses potential for agricultural

rehabilitation. As such, the application is not supported from agricultural development point of view.

#### Fire Safety

##### 9.10 Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses - A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

#### Buildings Matters

##### 9.11 Comments of the Chief Buildings Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) no comment on the application under the Buildings Ordinance; and
- (b) the proposed NTEHs should strictly comply with the Buildings Ordinance (Application to the New Territories) Ordinance.

##### 9.12 The following Government departments have no comment on/ objection to the application:

- (a) Project Manager/North, Civil Engineering and Development Department;
- (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (c) the Director of Electrical and Mechanical Services; and
- (d) District Officer (Tai Po), Home Affairs Department.

## **10. Public Comments Received During Statutory Publication Period**

On 11.9.2018, the application was published for public inspection. During the first three weeks of the statutory publication period, two public comments were received (**Appendix V**). While MTR Corporation Limited raises concerns on operational railway noise on future occupants of the proposed development, the other public comment from an individual raises objection to the application mainly for the reason of land is still available within "V" zone.

## **11. Planning Considerations and Assessments**

11.1 The Site falls entirely within an area zoned "AGR" on the OZP (**Plan A-1**). The proposed five NTEHs are not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.

- 11.2 The Site, located at the western fringe of Yuen Leng Village, is paved, fenced off with fence wall and is occupied by temporary structures and trees (**Plans A-1 and A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character occupied by village houses, fallow agriculture fields and some temporary structures. Village houses are mainly found to the east of the Site in Yuen Leng Village. CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view, and advises that while adverse impact on significant landscape resources from the proposed development is anticipated, there is available space within the Site for a landscape proposal to mitigate the adverse impact.
- 11.3 DLO/TP, LandsD objects to the application as LandsD generally would only consider NTEH development for (i) existing lease of 'building' lot with no specifically prohibiting NTEH and there is no increase in the number of NTEH; or (ii) land grant under the New Territories Small House Policy. As the Site does not have any building status under the lease and falls entirely outside the 'VE' and the "V" zone, it does not comply with the Interim Criteria (**Appendix II**). In this regard, CE/C of WSD also objects to the application as the Site falls outside the 'VE' and the "V" zone.
- 11.4 The Site falls within the upper indirect WGG and is less than 30m away from the nearest streamcourse. CE/MN of DSD advises that the Site is within an area where connections to the existing sewerage networks are available in the vicinity. CE/CM of DSD advises that since the proposed public sewerage works for Yuen Leng Village was degazetted on 29.10.2010, there is no fixed programme at this juncture for the implementation of the concerned sewerage works. DEP points out that there is an existing public sewer at about 10m to the west of the Site, but the applicant has not provided any sewerage connection proposal to support his application, in particular on potential conflict with an existing underground drainage pipe. He therefore does not support the application as the Site falls completely outside "V" zone, within the WGG and the application does not contain any information to demonstrate the proposed NTEHs would be able to be connected to existing/planned sewerage system in the area. As such, the application does not comply with the Interim Criteria on the requirement of sites within WGG to be connected to public sewerage system in the area.
- 11.5 DEP advises that the Site is located 30m from EAL and 60m from Fanling Highway. He does not support the application as the proposed development would be subject to significant railway noise impact if not duly mitigated, and the application does not contain any information to demonstrate compliance with the NCO and HKPSG requirements from noise perspective.
- 11.6 C for T, in general, has reservation on the application as such type of development should be confined within the "V" zone as far as possible. Nevertheless, as the application only involves the development of five houses, he considers that the application can be tolerated. Other departments consulted, including DEMS and D of FS, have no adverse comments on the application.
- 11.7 The current application is for NTEH development but not for Small House development. There is a similar application (No. A/NE-KLH/404) for six NTEHs within the same "AGR" zone, which was rejected by the Committee on 16.6.2010 mainly on the grounds of not in line with the planning intention of "AGR" zone; adverse landscape impact; adverse impact on water quality in the area; adverse noise

impact generated by the EAL nearby; and setting undesirable precedent. The planning circumstances of the current application are similar to this rejected case.

- 11.8 Regarding the public comments raising concerns on the operational railway noise and objection to the application mainly for the reason of land is still available within “V” zone, the planning assessments and comments of concerned Government departments in above paragraphs are relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the current submission for a departure from the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the applicant fails to demonstrate that the proposed development located within the water gathering ground would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
- (c) the proposed development would be subject to adverse noise impact generated by the East Rail nearby, and there is no information in the submission to demonstrate that the proposed development will be in compliance with the Noise Control Ordinance (Cap. 400).

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.11.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval Conditions

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal 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 the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and

- (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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**14. Attachments**

Appendix I	Application form
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Detailed comments of the Chief Town Planner/Urban Design and Landscape, Planning Department
Appendix V	Public comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 to A6	Drawings and plans submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

