

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/583

- Applicant** : Mr. WAI Tze Pong represented by Spence Robinson Limited
- Site** : Lots 643B S.A RP, 643B S.B, 643B RP, 644 S.A, 644 S.B and 644 RP in D.D. 9, Yuen Leng Village, Tai Po, New Territories
- Site Area** : 1,220.4 m² (About)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : 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 “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed five NTEHs are as follows:

Total GFA	:	974.319 m ² (Units 1 and 2: 194.952 m ² each; Units 3, 4 and 5: 194.805 m ² each)
Plot Ratio	:	0.798
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area of Each House	:	not more than 65.03 m ²
Number of Residential Units	:	5
Number of Car Parking Spaces	:	5 private car parking spaces and 1 loading/unloading space

- 1.3 Each proposed house will accommodate one residential unit, with living rooms, bedrooms, kitchen and bathrooms on the G/F and 1/F and a greenhouse/garden covered by openable glass panels on the 2/F. The uncovered area of the Site will be used for circulation and car parking.
- 1.4 The applicant has submitted a Sewerage Impact Assessment (**Appendices Ia** and **Ic**) proposing connection of the Site with an existing public sewer. He has also submitted a Noise Impact Assessment (**Appendices Ib** and **Ie**) proposing mitigation measures against railway and road traffic noise, such as orienting the proposed NTEHs to avoid direct facing to the noise sources, solid fence walls of 2m to 4m in height surrounding the Site, and fixed windows at particular locations. The site location plan, Master Layout Plan, floor plans, section plans, Emergency Vehicular Access (EVA) Exemption Diagram, proposed sewerage connection and height of fence wall of the proposed development submitted by the applicant are shown in **Drawings A-1 to A-8** respectively.
- 1.5 The Site is the subject of a previous application No. A/NE-KLH/556 submitted by the same applicant for the same use, which was rejected by the Rural and New Town Planning Committee (the Committee) on 2.11.2018. Compared with this previous application, the major development parameters under current application are largely the same, with a slight increase in site area (from 1217.7m² to 1220.4m²), GFA (from about 941m² to 974m²), and number of parking spaces (from four to five), minor change in disposition of houses and parking layout, and submission of proposals for sewerage connection and noise mitigation.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 14.1.2020 (**Appendix I**)
 - (b) Sewerage Impact Assessment (SIA) (**Appendix Ia**)
 - (c) Noise Impact Assessment (NIA) (**Appendix Ib**)
 - (d) Further Information (FI) received on 29.4.2020 and 4.5.2020 providing responses to departmental comments and minor updates on SIA[^] (**Appendix Ic**)
 - (e) FI received on 25.8.2020 providing responses to departmental comments and revised layout plan[^] (**Appendix Id**)
 - (f) FI received on 15.12.2020 providing responses to departmental comments and minor updates on NIA[^] (**Appendix Ie**)
- 1.7 On 6.3.2020, 26.6.2020 and 23.10.2020, the Committee, upon the applicant's requests, agreed to defer making a decision on the application for two months each to allow time for preparation of FI to support the application. The latest FI was submitted on 15.12.2020 and the application is scheduled for consideration by the Committee on 5.2.2021.

[^]*accepted and exempted from publication*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I** and the FI at **Appendices Ic to Ie**. They can be 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) NTEH is a column 2 use under the “AGR” zone. The proposed development is in line with permissible uses under Town Planning Ordinance;
- (c) the proposed low-rise NTEHs consist of 3 storeys, with an area of 700 sq. ft. each. They are compatible with their neighbourhood in terms of height, scale and disposition;
- (d) 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;
- (e) the traffic load generated from the proposed development is insignificant. The Site is fronting a public road which is over 4.5m wide. The pavement of the public road is about 2m wide which is convenient for pedestrian access. There are also public transport facilities in the vicinity of the Site;
- (f) five 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;
- (g) no soakaway is needed as government sewerage is available. Therefore, environmental impact is minimized. The current uses in the vicinity of the Site are generally residential. 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;
- (h) street hydrant is within 20m as shown in survey map. As the number of houses within 30m circle of neighbourhood does not exceed nine, no EVA is required. A minimum separation of 1.5m has been provided between each house;
- (i) 2 lychee trees, 3 longan trees, 1 star fruit tree and 1 jack fruit tree will be fell, which are not valuable trees. 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 provided for the Site for approval by relevant government department;
- (j) 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
- (k) 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 the other 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 New Territories Exempted House (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 grounds (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

5.1 The Site is the subject of a previous application (No. A/NE-KLH/556) for the same use submitted by the same applicant, which was rejected by the Committee on 2.11.2018 mainly on grounds that the proposed development was not in line with the planning intention of the “AGR” zone; would cause adverse impact on the water quality in water gathering grounds (WGG) for not being able to be connected to existing/planned sewerage system; and would be subject to adverse noise impact generated by the East Rail Line (ERL) nearby. Compared with this previous application, the major development parameters under current application are largely the same, with a slight increase in site area (from 1217.7m² to 1220.4m²), GFA (from about 941m² to 974m²), and number of parking spaces (from four to five), minor change in disposition of houses and parking layout, and submission of proposals for sewerage connection and noise mitigation.

5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1 and A-2**.

6. Similar Applications

6.1 There are 126 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**). Except one application (No. A/NE-KLH/404), all were for development of Small House. Application No. A/NE-KLH/404 involving development of six NTEHs was rejected by the Committee on 11.6.2010 mainly for reasons of being not in line with the planning intention, causing adverse landscape and water quality impacts, subject to noise impact generated by the ERL nearby, and setting of undesirable precedent.

6.2 For the 125 applications involving development of Small House, 82 were approved, 42 were rejected and one was partially approved and partially rejected. Among the approved applications, 63 were approved/partially approved before the adoption of a

more cautious approach by the Board in approving applications for Small House development in recent years. They were generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the village ‘environs’ (‘VE’); there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; the proposed development was able to be connected to the planned sewerage system; and/or the application site was the subject of a previously approved case.

- 6.3 After the Board’s adoption of a more cautious approach, there are 20 applications approved with conditions by the Committee between 2016 and 2020 which were approved mainly because there was previous approval and on other site-specific considerations such as having similar applications approved adjoining the site or more than 90% of footprint falling within the “V” zone.
- 6.4 For the rejected applications, 26 were considered before the Board’s adoption of a more cautious approach, and most of them were rejected mainly on the grounds of not being able to be connected to the existing/planned sewerage system in the area. A total of 17 applications were rejected after the Board’s adoption of a more cautious approach for a reason that land was still available within “V” zone for Small House development.
- 6.5 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Area (Plans A-1, A-2, and photos on Plans A-3, A-4)

- 7.1 The Site is:
 - (a) located to the west of Yuen Leng Village and is entirely outside the relevant village ‘environs’ (VE);
 - (b) paved and fenced off and is occupied by a two-storey structure for domestic use and two temporary structures of single storey for storage use;
 - (c) within the upper indirect WGG; and
 - (d) accessible via Tai Wo Service Road East.
- 7.2 The surrounding areas have the following characteristics:
 - (a) the surrounding areas are predominantly rural in character occupied by village houses, active plant nurseries and gardening activities, fallow agricultural land and temporary structures;
 - (b) village houses are mainly found to the east of the Site in Yuen Leng Village;
 - (c) the ERL and Fanling Highway are located about 20m and 50m to the west respectively; and
 - (d) a streamcourse 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

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) objects to the application as the subject lots are all under block government lease demised for agricultural use with no building entitlement. 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;
- (b) 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) as 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 other clauses applicable to this case. However, there is no guarantee that the approval to such land exchange will be given; and
- (d) no application for land exchange has been received.

Environment

9.1.2 Comments of the Director of Environmental Protection (DEP):

Noise

- (a) he does not support the application since the proposed development would be subject to significant railway noise impact if not duly mitigated, and the Noise Impact Assessment submitted by the applicant (**Appendix Ic** and **Ie**) has not yet demonstrated that the proposed development would be in compliance with the Noise Control Ordinance (Cap. 400) and Hong Kong Planning Standards and Guidelines (HKPSG) requirements from noise perspective;

- (b) as for road traffic noise, it is understood that roadside noise barriers at the concerned section of the Fanling Highway have been constructed under the Widening Project of Tolo Highway/Fanling Highway between Island House Interchange and Fanling to protect those village developments close to the road. No insurmountable traffic noise impact would be anticipated; and
- (c) his detailed comments on the Noise Impact Assessment submitted by the applicant are at **Appendix V**;

Water Quality and Sewerage

- (d) the Site falls within “AGR” zone and is within WGG. The applicant proposes connecting the five NTEHs to a public sewer manhole to the immediate west of the Site. The public sewerage in the area has sufficient capacity to cater for the sewage arising from the proposed NTEHs;
- (e) the application is acceptable from water quality and sewerage connection perspectives provided that:
 - (i) the proposed houses will be connected to the public sewer as proposed;
 - (ii) adequate land space within the Site will be reserved for connection of the proposed houses to the public sewer;
 - (iii) written consent(s) can be obtained from the relevant lot owner(s) and/or LandsD for laying and maintaining sewage pipes across the adjacent lot(s); and
 - (iv) the cost of sewer connection will be borne by the applicant.

Water Supply

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

- (a) the Site is located within upper indirect WGG;
- (b) housing development is considered posing a high risk of pollution to the WGG due to sewage discharge as well as intentional and unintentional contamination from domestic activities. Although the applicant has proposed connecting the Site with existing public sewers, there is no sufficient information to prove and demonstrate to the satisfaction of WSD that there is no material increase in pollution effect from various sources such as surface runoff, solid waste and sludge, use of pesticides, etc resulting from the proposed development;
- (c) in order to safeguard the raw water quality in WGG, the applicant shall provide a risk assessment report to prove and demonstrate to the satisfaction of the WSD that there is no material increase in pollution effect resulting from the proposed development, in particular the applicant shall provide evidences and/or control measures to ensure that the following conditions will be met:

- (i) no discharge of effluent or foul water into adjoining land, storm water drain, channel, stream or river course is allowed. Such foul water or effluent shall be collected and disposed of outside WGG;
 - (ii) all solid waste and sludge arising from the development shall be disposed of properly outside WGG;
 - (iii) the use, storage and discharge of pesticides, toxicants, flammable solvents, laticidal oil, rodenticide, tar and petroleum oil are strictly prohibited in WGG;
 - (iv) no chemicals including fertilizers shall be used without the prior approval from the Water Authority;
 - (v) oil leakage and spillage shall be prevented within WGG at all time;
 - (vi) the structure(s) under the development shall be as far away from any water courses as possible;
 - (vii) no earth and other construction materials which may cause contamination to WGG are allowed to be stockpiled or stored on site during the construction phase;
 - (viii) all excavated or filled surfaces shall be protected from erosion during construction phase; and
 - (ix) siltation to any water courses shall be prevented within WGG during construction phase. All construction spoils shall be contained and protected. Effluent containing spoils shall be disposed of after desiltation;
- (d) as the applicant has not submitted the risk assessment report and no sufficient information is provided to prove and demonstrate that the proposed development would cause no material increase in pollution effect to the WGG, the applied use within WGG should not be allowed.

Agriculture

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

- the Site is occupied by existing structures. Nevertheless, agricultural infrastructure such as water source 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.

Drainage

9.1.5 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;

- (b) no existing DSD maintained public drain available for connection in the area. The applicant should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site, e.g. surface channel of sufficient size along the perimeter of the Site; sufficient openings should be provided at the bottom of boundary wall/ fence to allow surface runoff to pass through the Site if any boundary wall/fence are to be erected. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (c) for works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought; and
- (d) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.

Landscape

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

- (a) the Site is surrounded by existing village houses. The proposed development is considered not entirely incompatible with the landscape character of the surrounding environment;
- (b) as per the layout plan submitted by the applicant, 12 existing trees are found within the site, in which, seven are proposed to be felled. All existing trees proposed to be felled are of common species. There are two existing trees (i.e. T3 and T11) of protected species, *Aquilaria sinensis* (土沉香), recorded at the southeast of the Site. It is noted that both these protected trees will be retained;
- (c) since the existing protected trees will be retained within the Site, should the TPB approve the application, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent; and
- (d) the approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO for approval.

Traffic

9.1.7 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the subject application as the proposed development should be confined within the "Village Type Development" ("V") zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, the proposed 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) nevertheless, as the application only involves development of five houses with five private parking spaces, he considers that it can be tolerated on traffic grounds.

Fire Safety

9.1.8 Comments of the Director of Fire Services (D of FS):

- the applicant is reminded to observe the '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.

9.2 The following Government departments have no adverse comment on the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Chief Highway Engineer/New Territories East, Highways Department;
- (d) Chief Building Surveyor/New Territories West, Buildings Department;
- (e) Project Manager (North), North Development Office, Civil Engineering and Development Department; and
- (f) District Officer (Tai Po), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 21.1.2020, the application was published for public inspection. During the statutory public inspection period, six public comments were received from MTR Corporation Limited (MTRCL), Designing Hong Kong, World Wide Fund for Nature Hong Kong, Tai Po Yuen Leng Village Resident's Association (大埔元嶺村居民協會) and two individuals. While MTRCL raises concerns that the proposed development could be sensitive to noise impact and tenders comments on the Noise Impact Assessment submitted by the applicant, the remaining five public comments raise objection to the application mainly for the reasons that the proposed development is not in line with the planning intention of "AGR" zone; there is a suspected unauthorized building on site; the Site is subject of a previous rejected application; the proposed development would block the access to Yuen Leng Village; the applicant is not an indigenous villager of Yuen Leng Village; the vehicular access is too narrow which would cause road safety to the pedestrian and drivers; and approval of the application would set an undesirable precedent for similar applications in the area.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed development of five houses (NTEHs) (not Small Houses) on the Site which falls entirely within the “AGR” zone on the OZP (**Plan A-1**). The proposed development is not in line with the planning intention of the “AGR” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.
- 11.2 The Site comprises all private lots held under Block Government Lease demised for agricultural purpose with no building entitlement. 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.
- 11.3 The Site is fenced off and occupied by temporary structures. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character occupied by village houses, active/fallow agriculture land and temporary structures. There are 12 existing trees in the Site. Seven trees will be felled under the proposed development, all of which are common species. Two trees of protected species, *Aquilaria sinensis* (土沉香), will be retained. CTP/UD&L, PlanD has no adverse comments on the application.
- 11.4 The Site falls within the upper indirect WGG. A Sewerage Impact Assessment has been submitted by the applicant proposing connection of the Site with an existing public sewer. DEP advises that the public sewerage in the area has sufficient capacity to cater for the sewage arising from the proposed development. However, CE/C of WSD considers that housing development is posing high risk of pollution to the WGG, from various sources such as surface runoff, solid waste and sludge, use of pesticides, etc and the applicant shall provide a risk assessment report to prove and demonstrate that there is no material increase in pollution effect resulting from the proposed development. As the applicant has not submitted the risk assessment report, the application should not be approved.
- 11.5 The Site is located near ERL and Fanling Highway. DEP advises that while no insurmountable noise impact from road traffic on the proposed development would be anticipated, the proposed development would be subject to significant railway noise impact if not duly mitigated. The Noise Impact Assessment submitted by the applicant has not yet demonstrated the development would be in compliance with the Noise Control Ordinance (Cap. 400) and HKPSG requirements from noise perspective.
- 11.6 C for T has reservation on the application as the proposed development will set an undesirable precedent for similar applications in the future, which may result in substantial cumulative adverse traffic impact. Nevertheless, he considers the application involving development of only five NTEHs and five private car parking spaces can be tolerated on traffic grounds. Other departments consulted, including CHE/NTE of HyD, PM/N of CEDD, DEMS, D of FS and DO/TP of HAD, have no adverse comments on the application.

- 11.7 The Site is the subject of a previous application (No. A/NE-KLH/556) for the same use submitted by the same applicant, which was rejected by the Committee on 2.11.2018 mainly on grounds that the proposed development was not in line with the planning intention of the “AGR” zone; would cause adverse impact on the water quality in WGG for not being able to be connected to existing/planned sewerage system; and would be subject to adverse noise impact generated by the ERL nearby. Compared with this previous application, the major development parameters under current application are largely the same, with a slight increase in site area (from 1,217.7m² to 1,220.4m²), GFA (from about 941m² to 974m²), and number of parking spaces (from four to five), minor change in disposition of houses and parking layout. Although proposals for sewerage connection and noise mitigation are submitted in the current application, CE/C, WSD and DEP advise that their concerns on adverse water quality impact in WGG and railway noise impact respectively have not yet been sufficiently addressed. There is no major change in planning circumstances since the rejection of the previous application.
- 11.8 As shown on **Plan A-2**, there are 18 similar applications in close proximity to the Site. Except for application No. A/NE-KLH/404, all other similar applications were for Small House developments. Application No. A/NE-KLH/404 involving development of six NTEHs was rejected by the Committee on 16.6.2010 mainly on the grounds of being not in line with the planning intention, causing adverse landscape and water quality impacts, being subject to noise impact generated by the EAL nearby, and setting of undesirable precedent. The planning circumstances for rejection of this application are largely applicable to the current application.
- 11.9 For the remaining 17 similar applications involving Small House development, nine (No. A/NE-KLH/245, 304, 339, 368, 378, 379, 403, 410 and 459) were approved for consideration that they were 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 “V” zone at the time of consideration; the proposed development was able to be connected to the planned sewerage system; and/or the application site was the subject of a previously approved case. The remaining eight cases (No. A/NE-KLH/ 300, 312, 430, 439, 443, 483, 544 and 546) were rejected mainly on the grounds of not being able to be connected to existing or planned sewerage system in the area.
- 11.10 Regarding the adverse public comments mentioned in paragraph 10 above, Government departments’ comments and the planning assessments above 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 this planning intention;

- (b) the Site falls within the upper indirect water gathering grounds (WGG) and the applicant fails to demonstrate that the proposed development would cause no material increase in pollution effect to the WGG; and
- (c) the proposed development would be subject to adverse noise impact generated by the East Rail Line nearby, and the applicant fails to demonstrate that the impact could be addressed.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 5.2.2025, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) 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;
- (c) the submission of a risk assessment report on contamination of Water Gathering Grounds and implementation of mitigation measures identified therein to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (d) the submission of a revised Noise Impact Assessment and the implementation of the noise mitigation measures identified therein for the proposed development to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

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

14. Attachments

Appendix I	Application Form with Attachments received on 14.1.2020
Appendix Ia	Sewerage Impact Assessment
Appendix Ib	Noise Impact Assessment
Appendix Ic	Further information received on 29.4.2020 and 4.5.2020
Appendix Id	Further information received on 25.8.2020
Appendix Ie	Further information received on 15.12.2020
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application
Appendix IV	Similar s.16 Applications within the same “Agriculture” zone on the Kau Lung Hang OZP
Appendix V	Detailed Comments from Environmental Protection Department on the Noise Impact Assessment
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Master Layout Plan
Drawings A-3 and A-4	Floor Plans
Drawing A-5	Section Plan
Drawing A-6	Emergency Vehicular Access Exemption Diagram
Drawing A-7	Sewerage Connection Plan
Drawing A-8	Noise mitigation measures
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos