

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

**APPLICATION NO. A/NE-KLH/545**

<b><u>Applicant</u></b>	Wellong Engineering Limited represented by Brighspect Limited
<b><u>Site</u></b>	Lot 1891 and Extension in D.D. 7, Wai Tau Tsuen, Kau Lung Hang, Tai Po, New Territories
<b><u>Site Area</u></b>	About 2,068.9m <sup>2</sup>
<b><u>Lease</u></b>	New Grant Lot held under New Grant No. 9061 (a) To expire on 30.6.2047 (b) Restricted to private residential purpose only (not exceeding 25% site coverage and a building height of 25 feet (i.e. 7.62m))
<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 Eight Houses (New Territories Exempted Houses) (NTEHs)

**1. The Proposal**

- 1.1 The applicant, owner of the application site (the Site), sought planning permission to build eight 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**).
- 1.2 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)’ is a Column 2 use under the “AGR” zone, which requires planning permission from the Town Planning Board (the Board).
- 1.3 Details of the proposed development are as follows:

Covered Area	: 517.2m <sup>2</sup>
Site Coverage	: 25%
Total Domestic GFA	: 1551.6m <sup>2</sup>
No. of Block	: 8
No. of Storeys	: 3
Building Height	: 7.62m
Roofed over Area of Each House	: 64.65m <sup>2</sup>

- 1.4 According to the applicant, the proposed development will include 8 parking spaces (2.5m x 5m each). The uncovered area of the Site will be used as internal access and landscape gardens for the development. A sewerage connection proposal is submitted.
- 1.5 The Site is the subject of three previous applications (No. A/NE-KLH/2, 349 and 381). The last two applications were submitted by the same applicant for the same use and same development intensity (except the building height which was proposed at 8.23m). Application No. A/NE-KLH/349 was rejected by the Rural and New Town Planning Committee (the Committee) and the Board on review on 4.8.2006 and 17.8.2007 respectively mainly for considerations of inability to connect with public sewers, adverse impacts on water quality and feasibility of proposed sewage treatment plant. The last application No. A/NE-KLH/381 was approved with conditions by the Committee on 22.5.2009 mainly for reasons that sympathetic consideration was given based on the subject lots had building entitlement; the Director of Agriculture, Fisheries and Conservation (DAFC) had no strong view against the application from agriculture and nature conservation points of view; and the proposed houses were able to be connected with future public sewers.
- 1.6 In this submission, the number of houses, total GFA, site coverage and number of storeys are same as those under the latest previous application No. A/NE-KLH/381. The applicant originally proposes a building height of 8.23m in the current application. In response to the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD)'s comments, the applicant submitted further information (FI) (**Appendix Id**) to reduce the building height to 7.62m (i.e. 25 feet) so as to tally with the existing lease conditions. Besides, the built form of the houses and overall layout of the proposed scheme have been changed. Moreover, the applicant proposes to connect the proposed houses to public sewers instead of using sewage treatment plant as proposed under the previous application. The layout plan and Master Landscape Plan of the proposed development are shown in **Drawings A-1** and **A-2** respectively.
- 1.7 In support of the application, the applicant submitted the following documents :
- (a) an application form **(Appendix I)**
  - (b) Planning Statement **(Appendix Ia)**
  - (c) FI received on 11.4.2018 in response to departmental comments with a sewerage connection proposal (*accepted and exempted from the publication and recounting requirements*) **(Appendix Ib)**
  - (d) FI received on 18.4.2018 in response to departmental comments (*accepted and exempted from the publication and recounting requirements*) **(Appendix Ic)**
  - (e) FI received on 25.4.2018 in response to departmental comments (*accepted and exempted from the publication and recounting requirements*) **(Appendix Id)**

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 6 of the planning statement at **Appendix Ia** and in the FI at **Appendices Ic and Id**. They are summarized as follows:

- (a) in comparison with the previously approved application, the current application has no change in terms of site area, site coverage, GFA, number of building blocks, number of storeys and schedule of accommodation. In the FI submitted on 25.4.2018, the proposed building height is reduced from not exceeding 8.23m to 7.62m (i.e. 25 feet), which is allowed in the land grant of the Site for residential development and no lease modification would be required for the proposed development;
- (b) the Site is entirely within the village 'environs' ('VE') of Wai Tau Tsuen. The proposed development is not incompatible in built form and development height of the neighbouring NTEHs and the surrounding rural residential character of the area;
- (c) the proposal complies with most of the assessment criteria for NTEH development including sewerage connection, emergency vehicular access, location within the 'VE', compatibility in use, form, layout and design, etc;
- (d) there were nine planning applications approved for NTEH development in 2015-2017 which covered the "AGR" zone of the OZP. The development proposal is in line with the approval history of the zone for proposed residential use;
- (e) the Site has been laid derelict for over 50 years. The aerial photo records prove that there had been no active farming activity on the Site since 1986 and possibly beyond. Thus, there is no net loss of farmland or good potential rehabilitation farming area due to this application. The Site is largely a piece of paved flat land. No major site formation, pond filling and land excavation will be required for the proposed development;
- (f) the development proposal maintains the existing footpath access to the three houses of King's Lodge. The application will not cause access issue to neighbours. The Site has a unique location at the entrance of Wai Tau Tsuen and is directly linked with the existing village road connecting with efficient local and regional road network. The Site is thus considered desirable for residential use ;
- (g) the completion of the public sewer of Wai Tau Tsuen and the confirmation of feasibility of public sewer connection renders the Site well-facilitated by public utilities for residential development. A sewerage connection proposal has been submitted;
- (h) the proposed development will not lead to major adverse landscape impact but will facilitate a good landscape plan for a higher aesthetic and environmental value of the locality. The existing high value mature trees identified within and in close vicinity of the Site are proposed to be preserved. The proposed layout plan well accommodates these mature trees and their growing environment by providing sufficient space for their healthy growth. Upon approval of the application, plans for protection measures during site construction will be provided upon request to the satisfaction of the Board. To further enhance a good greenery environment, a total of 21 new trees are proposed to be planted to compensate 12 trees proposed to be felled;

- (i) the previous traffic noise survey 2009 and Fanling Highway Environmental Impact Assessment report revealed that the Site is not identified as noise sensitive receiver (NRS). The orientation of the proposed houses away from source of noise and the disposition of site entrance, driveway and private car-parking area as setback and the growing of new trees as noise barriers would further facilitate a tranquil living environment for the future residents;
- (j) the Site is directly accessible to local and regional road network via existing village access road. Besides, the proposed development will be provided with private car parking lot within the Site for each proposed house. The Site is also efficiently served by public bus and public minibus within short walking distance. There is thus negligible traffic impact to be induced by the proposed development; and
- (k) the Site is located at a prominent entrance location of Wai Tau Tsuen. The current long-existed unmanaged condition of the Site is in fact an eye-sore of Wai Tau Tsuen locality and a possible spot of crime activities. The proposed development and landscape layout in a properly managed environment will undoubtedly greatly improve the environment of Wai Tau Tsuen neighborhood. As opined in a public local comment of the previously approved application, a proper development for residential use of the Site will also improve the security environment of the village for the benefit of whole village locality.

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

The applicant is the sole “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 Applications**

- 5.1 The Site is the subject of three previous planning applications No. A/NE-KLH/2, 349 and 381.
- 5.2 Application No. A/NE-KLH/2 was submitted by a different applicant for development of eight NTEHs with a total GFA of 1,551.12m<sup>2</sup>, site coverage of 25%, 3 storeys and 24 car parking spaces. The application was rejected by the Committee on 16.9.1994 for reasons that (i) the proposed development was excessive; (ii) not compatible with the surrounding agricultural uses; (iii) the proposed layout was not satisfactory; (iv) it would generate traffic impact; and (v) the proposed development would be exposed to traffic noise and require felling of mature trees. The application was rejected by the Board upon review on 21.4.1995 for similar reasons.

- 5.3 Application No. A/NE-KLH/349 for development of eight NTEHs with the same development parameters (except that the building height is proposed at 8.23m) submitted by the same applicant of the current application was rejected by the Committee on 4.8.2006 for reasons that (i) the proposed development within WGG was unable to be connected to the existing or planned public sewers in the area and the proposed sewage treatment plant was technically unacceptable and its construction, operation and maintenance could not be supported by a viable 'legal entity' and adequately covered by an operation and maintenance plan; (ii) there was insufficient information in the submission to address the traffic noise problem affecting the site; and (iii) there was insufficient information in the submission to demonstrate that all the mature trees within the site would be retained. The application was rejected by the Board upon review on 17.8.2007 for similar reasons.
- 5.4 The latest application No. A/NE-KLH/381, submitted by the same applicant of the current application, was approved with conditions by the Committee on 13.3.2009 mainly for reasons that sympathetic consideration was given based on the subject lots had building entitlement; the DAFC had no strong view against the application from agriculture and nature conservation points of view; and the proposed houses were able to be connected with future public sewers. However, the planning permission lapsed on 14.3.2013.
- 5.5 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## **6. Similar Applications**

- 6.1 There are two similar applications (No. A/NE-TK/453 and 501) for Small House development in the vicinity of the Site within the same "AGR" zone. Application No. A/NE-TK/453 was rejected by the Committee on 19.7.2013 as the proposed development involved tree felling and caused adverse landscape impact on the surrounding areas. Application No. A/NE-TK/501 was rejected by the Board on 2.9.2016 upon review as the proposed development caused adverse landscape impact on the surrounding areas and land was still available within "V" zone of Wai Tau Tsuen.
- 6.2 Details of the applications are summarized at **Appendix IV** 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) entirely within the 'VE' of Wai Tau Tsuen, lying to the south of the Wai Tau Tsuen village proper;
  - (b) vacant and partly occupied by shrubs with a number of mature trees at the periphery of the Site;
  - (c) largely within the fung shui area of Wai Tau Tsuen; and

- (d) accessible by a village road.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character, occupied by village houses, temporary domestic structures and vacant land; and
- (b) along the southern boundary of the Site is an existing domestic structure (King's Lodge). A slope is located to the west of the Site. Lam Tsuen River lies in the southwest and Fanling Highway is located to its southeast.

## 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) he has no objection to the application subject to the comments below;
- (b) the Site is governed by New Grant No. 9061 dated 13.3.1962 with an Extension Letter dated 24.8.1965 and further varied or modified by Modification Letters dated 13.6.1972 and 18.8.1975. The Site is restricted to private residential use and subject to a maximum built-over area of 25% of the area of the lot and no structures shall exceed a height of 25 feet;
- (c) the Site falls within the 'VE' of Wai Tau Tsuen and is not covered by any Modification of Tenancy/ building licence;
- (d) the Site is a Fung Shui area in Wai Tau Tsuen according to his office record. District Officer (Tai Po), Home Affairs Department should be consulted;
- (e) the previous proposed lease modification for the erection of 8 NTEHs at the Site was rejected on 31.3.2014 on the grounds that the planning permission has lapsed. No further application for modification has been received;
- (f) regarding the FI submitted by the applicant at **Appendix Id**, he notes that the applicant has amended the proposed development scheme. The proposed building height of the 8 houses would be reduced from not exceeding 8.23m to 7.62m (i.e. 25 feet). The applicant also states that other proposed development parameters would remain unchanged. The revised proposal is not in conflict with the lease conditions governing the Site and so if the proposal is approved by the Board, the applicant is not required to seek a lease modification from

LandsD to implement it. Therefore, any planning conditions, if imposed by the Board, cannot be written into the lease through lease modification.

## Environment

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

- (a) the Site falls within “AGR” zone, and is within WGG. The applicant proposed to connect the proposed houses to a newly constructed public sewer at about 10m to the northeast of the Site, which would be ready for connection in 2018. As the public sewer has sufficient capacity to accommodate the discharge from the proposed houses, and there is sufficient level drop in between, he has no adverse comment on the applicant’s sewer connection proposal;
- (b) as the Site is located near Fanling Highway and Lam Kam Road Interchange and its associated road network, the proposed development would be subject to adverse traffic noise impact if there is no proven noise mitigation measures to address such noise impact. While no insurmountable traffic noise impact is anticipated, the information provided in the applicant’s submission could not demonstrate that the proposed development would be in compliance with the relevant noise standards in Hong Kong Planning Standards and Guidelines (HKPSG). The applicant should implement appropriate noise mitigation measures in the development in accordance with the HKPSG to address the noise impact. Examples of useful design and measures may include, but not limited to, arranging non-noise sensitive uses (e.g. kitchen, bathroom, storeroom and enclosed staircases) and provision of fixed glazing at the facades having line of sight to the nearby roads, boundary walls, etc.;
- (c) considering the above, he has no objection to the application on the conditions that:
  - (i) the proposed houses will be connected to the public sewer for sewage disposal;
  - (ii) no actual construction of the proposed houses until the public sewerage is available for connection;
  - (iii) written consents could be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes across the adjacent lot(s), if necessary;
  - (iv) adequate land space within the Site will be reserved for connection of the proposed houses to the public sewer; and
  - (v) the cost of sewer connection will be borne by the applicant;
- (d) the following advisory clauses are applicable:
  - (i) the applicant should provide adequate noise mitigation measures in the development in accordance with the HKPSG to alleviate the traffic noise impact;

- (ii) the applicant should implement good site practices and adopt measures in ProPECC PN 1/94 “Construction Site Drainage” during the construction of the proposed houses to avoid disturbances to watercourses;
  - (iii) although no insurmountable technical difficulties are envisaged for the sewer connection, the applicant is advised to pay attention to avoiding potential conflict with other underground utilities when making the sewer connection. The actual alignment and number of intermediate private manholes will depend on site conditions and the applicant is required to submit plans showing the actual connection works to DSD in association with its future technical audit under the prevailing mechanism. The applicant could check DSD and DEVB’s Practitioners Guidelines on “Arrangement for Private Developers to employ their own Contractors to carry out Drainage Connections” regarding the procedures to be followed and the maintenance responsibility of the connection works; and
- (e) detailed comments on the Planning Statement regarding noise impact are in **Appendix V**.

### Water Supply

#### 9.3 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Dev(2), WSD):

- (a) he has no objection to the application;
- (b) the Site is located within upper indirect WGG and is less than 30m from the nearest stream. The footprint of the proposed houses is 100% within “AGR” zone on the approved Kau Lung Hang OZP and within the ‘VE’ of Wai Tau Tsuen;
- (c) DEP indicates that the Site is able to be connected to the public sewerage system in the area which would be ready for connection in 2018 and has no objection to the application. Therefore, compliance of the application with item (i) of the Interim Criteria can be reasonably established;
- (d) DEP advises that the applicant shall connect the proposed houses with public sewer for sewage disposal. He supports DEP’s view by imposing the following approval conditions:
  - (i) the foul water drainage system of the proposed NTEHs can be connected to the planned public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the planned public sewerage system;
  - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the water gathering grounds;
  - (iii) no actual construction of the proposed NTEHs until the public sewerage network has been completed;



- (iv) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed NTEHs to the sewerage system via relevant private lot;
  - (v) since the proposed house itself is less than 30m from the nearest water course, it should be located as far away from the water course as possible;
  - (vi) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes from the proposed house to the public sewer; and
- (e) for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

#### Drainage

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

- (a) he has no objection in principle 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 TPB to ensure that it will not cause adverse drainage impact to the adjacent area;
- (b) there is no public drain maintained by DSD in the vicinity of the Site. 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. The proposed development, being located on the unpaved ground, will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/ owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (c) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The

applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected;

- (d) the Site is within an area where connections to existing sewerage networks will be available in the vicinity. Should the applicant choose to connect his proposed sewerage systems to DSD's networks, the applicant shall furnish CE/MN, DSD with his connection proposals for agreement; and
- (e) the applicant is required to rectify/modify the drainage/sewerage systems if they are found to be inadequate or ineffective during operation. The applicant shall also be liable for and shall indemnify Government against claims and demands arising out of damage or nuisance caused by failure of the system.

### Landscape

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

- (a) he has some reservations on the application from the landscape planning point of view;
- (b) referring to the aerial photo dated 3.1.2018, the Site is situated in an area of rural landscape character comprising of scattered tree groups, active farmland 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) with reference to site visit on 16.3.2018, the Site is vacant and partly hard paved. Sixteen existing trees of common species (*Macaranga tanarius*(血桐), *Leucaena leucocephala*(銀合歡), *Crateva unilocularis*(魚木) and *Delonix regia*(鳳凰木)) are spotted within the Site. With no specific measures to preserve the existing trees, most of them are proposed to be felled by the applicant to make room for the proposed development. Approval of the application would set an undesirable precedent to similar developments within the "AGR" zone;
- (d) in comparing the aerial photos taken on 15.5.1996, 11.6.2004, 21.3.2014 and 3.1.2018, it is apparent that vegetation has been cleared within the Site prior to submission of the previous applications. Approval of this application would set an undesirable precedent to encourage such practices. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area;
- (e) should the application be approved, the submission and implementation of tree preservation and landscape proposal are recommended to be imposed;
- (f) comments on the Master Landscape Plan (LMP) included in the applicant's submission are as follows:

- (i) the planting location of the proposed compensatory tree at House 3 is in conflict with pedestrian path. Please review;
- (ii) the proposed compensatory trees for House 2 and House 5 are considered too close to the houses. A minimum 3m clearance should be maintained between trees and buildings;
- (iii) noting that there is approximately 4m level difference along the southern boundary, landscape treatment(s) along the southern boundary should be provided for screening of the retaining wall to mitigate the visual impact to the surrounding environment;
- (iv) referring to the site inspection, it is observed that T14 is two *Delonix regia* (鳳凰木) with separate trunks instead of one tree with co-dominant trunk as specified in the Tree Assessment Schedule. Please review;
- (v) the two existing trees (T1 and T16) included in the LMP are outside the site boundary. Please advise the responsible party of tree maintenance and whether consent and/or agreement from the party concerned have been sought; and
- (vi) compensatory trees are proposed on existing artificial steep slope, i.e. eight *Michelia x alba*(白蘭) along the southern boundary. A typical section showing dimensions and details of the proposed tree and its relationship with the existing slope are required.

## Traffic

### 9.6 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 “Village Type Development” (“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;
- (b) notwithstanding the above, the application only involves development of houses grouped in an area and he considers that the application can be tolerated unless it is rejected on other grounds; and
- (c) the existing access near the Site is not under Transport Department’s management, it is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

## Agriculture

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

- The Site is vacant. Nevertheless, 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.

## Electricity and Town Gas Safety

### 9.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

#### (a) Electricity Safety

- (i) no particular comment on the application from electricity supply safety aspect; and
- (ii) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and /or overhead line within and /or in the vicinity of the concerned site. They should observe the Electricity Supply Lines (Protection) Regulations and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines;

#### (b) Town Gas Safety

- (i) there are high pressure and intermediate pressure underground town gas transmission pipelines (running along Tai Wo Service Road West) in the vicinity of the Site. It is anticipated that the Site will result in a significant increase in population in the vicinity of the above gas installations. A risk assessment would be required from the project proponent of the Site to assess the potential risks associated with the gas installations, having considered the proposed development at the Site;
- (ii) the project proponent/consultant/works contractor shall liaise with the Hon Kong and China Gas Company Limited in respect of the exact locations of existing or planning gas pipes/gas installations in the vicinity of the Site and any required minimum set back distance away from them during the design and construction stages of development; and
- (iii) the project proponent/ consultant/ works contractor is required to observe the requirements of the Electrical and Mechanical Services Department’s “Code of Practice on Avoiding Danger from Gas Pipes” for reference.

### Fire Safety

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

- (a) he has 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.

### Building

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

- (a) he has no comment on the application under the Buildings Ordinance;
- (b) the proposed NTEHs should strictly comply with Buildings Ordinance (Application to the New Territories) Ordinance;
- (c) the proposed communal drainage system and the access road shown on the layout plan are considered as non-exempted building works and it should be submitted to the Building Authority for approval prior to commencement of works. Detailed comments will be given at the plan submission stage; and
- (d) the applicant shall be reminded that plans should be submitted to the Building Authority for approval prior to commencement of works if non-exempted site formation is involved.

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

- (a) Chief Engineer/Consultants Management, Drainage Services Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer (Tai Po), Home Affairs Department;

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

On 16.3.2018, the application was published for public inspection. During the three-week statutory publication period, seven public comments were received (**Appendix VI**). Three comments from representatives of indigenous villagers and residents of Wai Tau Tsuen and four comments from individuals object to or raising concerns on the application mainly on the grounds of fung shui issue, impacts on sewage, geotechnical, traffic and parking, tree preservation and environmental aspects, departure from planning intention of “AGR” zone and undesirable precedents.

## 11. Planning Consideration and Assessments

- 11.1 The Site falls within an area zoned “AGR” on the OZP (**Plan A-1**). The applied use 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, 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 as the Site possesses potential for agricultural rehabilitation and agricultural infrastructure such as water supply and road access is available.
- 11.2 According to DLO/TP, LandsD, the subject lot may be developed for residential use subject to a maximum built-over area of 25% of the area of the lot and a height of not exceeding 25 feet (i.e. 7.62m). The proposed development comprises 8 NTEHs with a total covered area of 517m<sup>2</sup>, total site coverage of 25%, total domestic GFA of 1,551.6m<sup>2</sup> as well as 3 storeys and 7.62m for each house. As the proposal is not in conflict with the lease conditions governing the Site, DLO/TP, LandsD has no objection to the application under the lease.
- 11.3 The proposed development is not incompatible with the surrounding rural character. The surrounding areas are mainly occupied by village houses and vacant land with no agricultural activities. Although the application is not in line with the planning intention of the “AGR” zone, considering that the Site has building entitlement, sympathetic consideration may be given to the application.
- 11.4 The proposed development is located within the WGG. CE/MN, DSD advises that the Site is within an area where connections to the existing sewerage networks will be available in the vicinity. DEP has no objection to the application provided that the proposed houses will be connected to the public sewers at the costs of the applicant. DWS also has no objection to the application and advises that the foul water drainage system of the proposed NTEHs can be connected to the planned public sewerage system in the area and the applicant shall connect the whole of the foul water drainage system to the planned public sewerage system. In this regard, an approval condition has been recommended in paragraph 12.2 (c) below.
- 11.5 DEP advises that as the Site is located near Fanling Highway and Lam Kam Road Interchange and its associated road network, the proposed development would be subject to adverse traffic noise impact if there is no proven noise mitigation measures to address such noise impact. While no insurmountable traffic noise impact is anticipated, the applicant should implement appropriate noise mitigation measures in the proposed development in accordance with the HKPSG to address the traffic noise impact. An advisory clause on this aspect has been recommended in paragraph (b)(v) of **Appendix VII** to address DEP’s concern.
- 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 houses grouped in an area, he considers that the application can be tolerated unless it is rejected on other grounds. CTP/UD&L of PlanD has some reservations on the application from the landscape planning point of view. There are 16 existing trees of common species within the Site. With no specific measures to preserve the existing trees, most of them are proposed to be felled to make room for the proposed development. Approval of the application would therefore set an undesirable precedent to similar developments within the “AGR” zone. To address CTP/UD&L’s concern, an approval condition on

the submission and implementation of landscape and tree preservation proposal has been recommended in paragraph 12.2(b) below. CE/MN, DSD has no objection in principle to the proposed development from public drainage point of view. If the application is approved, an approval condition has been recommended in paragraph 12.2(a) below requesting the applicant to submit and implement drainage proposal for the Site to ensure that the proposed development will not cause adverse drainage impact to the adjacent area. Other departments consulted, including DEMS and D of FS, have no adverse comments on the application.

- 11.7 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of each proposed NTEH falls within the 'VE' of Wai Tau Tsuen (**Plan A-1**) and the proposed development would be able to be connected to public sewerage system (**Plan A-2a**).
- 11.8 The last application No. A/NE-KLH/381, submitted by the same applicant of the current application, was approved with conditions by the Committee on 13.3.2009 mainly for reasons that sympathetic consideration was given based on the subject lots had building entitlement; the DAFC had no strong view against the application from agriculture and nature conservation points of view; and the proposed houses are able to be connected to the future public sewers. Compared with the approved scheme, the building height has been reduced from 8.23m to 7.62m to comply with the lease entitlement, other development parameters have not been changed. There is no major change in the planning circumstances in the area since the last approval. Approval of the current application would be in line with the Committee's previous decision.
- 11.9 Two similar applications No. A/NE-TK/453 and 501 for Small House development within the same "AGR" zone were rejected by the Committee or the Board upon review on 19.7.2013 and 2.9.2016 respectively mainly on the grounds of felling of trees and/or adverse landscape impact on the surrounding areas and/or land was still available within "V" zone of Wai Tau Tsuen. The current application was not for Small House development.
- 11.10 Regarding the public comments to the application mainly on the grounds of impacts on sewage, geotechnical, traffic and parking, tree preservation and environmental aspects, departure from planning intention of "AGR" zone and undesirable precedents, Government departments' comments and the planning assessment above are relevant. Objection from the villagers of Wai Tau Tsuen regarding fung shui is noted.

## **12. Planning Department's Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.5.2022, 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 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 submission and implementation of a tree preservation and landscape proposal to the satisfaction of the Director of Planning 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) 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 VII**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the application site is located near Fanling Highway Lam Kam Road Interchange and its associated road network and the proposed development would be subject to adverse traffic noise impact. The applicant fails to demonstrate that any proven noise mitigation measures would be available to address the traffic noise impact; and
- (b) the approval of the application will set an undesirable precedent to encourage clearance of vegetation prior to submission of application. The cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area.

**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 Ia	Planning Statement
Appendix Ib	Further information submitted by the applicant received on 11.4.2018
Appendix Ic	Further information submitted by the applicant received on 18.4.2018
Appendix Id	Further information submitted by the applicant received on 25.4.2018
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Director of Environmental Protection's detailed comments on the Planning Statement regarding noise impact
Appendix VI	Public comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Landscape Master Plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT  
MAY 2018**

