

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/541

<u>Applicant</u>	Mr. WONG Kai Man
<u>Site</u>	Lot 433 S.A ss.6 in D.D. 9, Yuen Leng, Tai Po, New Territories
<u>Site Area</u>	About 181.6 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zonings</u>	“Village Type Development” (“V”) (about 81.8m ² or 45%) and “Agriculture” (“AGR”) (about 99.8m ² or 55%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, indigenous villager of Yuen Leng Village, Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, seeks planning permission to build an NTEH (Small House) on the application site (the Site). The Site falls within an area partly zoned “V” and partly zoned “AGR” on the approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11 (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, such use within the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

Total floor area	:	195.09m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

Layout of the proposed development is shown on **Drawing A-1**. The uncovered area is proposed to be used for garden.

- 1.3 The Site is the subject of two previous applications (No. A/NE-KLH/375 and 450) submitted by the same applicant for the same use, which were approved with conditions on 10.10.2008 and 25.1.2013 respectively by the Rural and New Town Planning Committee (the Committee) of the Board. Comparing with the previous applications, the development parameters and the footprint of the proposed Small House under the current application remain the same.
- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**).
- 1.5 At the request of the applicant, the Committee agreed on 9.2.2018 to defer the consideration of the application for two months to allow time for the applicant to prepare further information (FI) to support the application. The applicant submitted FI on 20.3.2018 with a plan showing the proposed connection to the public sewer at Kau Lung Hang San Wai (**Appendix Ia**). The application is re-scheduled for consideration on 18.5.2018.

2. Justification from the Applicant

The justification put forth by the applicant in support of the application as mentioned in Part 9 of the application form at **Appendix I** is to build a house for self-occupation.

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

The applicant is the sole “current land owner” of the Site. 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 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 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 two previous applications (No. A/NE-KLH/375 and 450) for Small House development submitted by the same applicant. Application No. A/NE-KLH/375 was approved with conditions by the Committee on 10.10.2008 mainly on considerations that more than 50% of the footprint of the proposed Small House fell within the village ‘environs’ (‘VE’); there was a general shortage of land within “V” zone in meeting the Small House demand; and the proposed Small House was able to be connected to the planned sewerage system in the area.

- 5.2 Application No. A/NE-KLH/450 was approved with conditions by the Committee on 25.1.2013 mainly on sympathetic consideration as the site was the subject of a previous approval (No. A/NE-KLH/375) which was granted at the time when the public sewerage system was gazetted. The sewerage scheme was subsequently degazetted in October 2010. In order to address the sewage disposal issue, the applicant proposed to provide a septic tank and soakaway system (STSS) within the “V” zone portion of the application site. Taking into account the special circumstances of the case, concerned departments including Director of Environmental Protection (DEP) and Director of Water Supplies (DWS) had no objection to the application subject to (i) the STSS to be used in the interim should be in compliance with the requirements as set out in the Practice Note for Professional Persons (ProPECC PN) No. 5/93, and (ii) the proposed Small House should be connected to the planned sewerage system in future when available.
- 5.3 Details of the applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

6. Similar Applications

- 6.1 There are 93 similar applications for Small House development within the same “AGR” zone and in the vicinity of the Site 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 with conditions by the Committee before criterion (i) of the Interim Criteria came into effect on 23.8.2002.
- 6.2 After that, 58 similar applications (No. A/NE-KLH/304, 310, 311, 328, 339, 341, 343 – 347, 351, 352, 358 (partial), 368, 370, 372, 378, 379, 397, 400, 403, 406, 407, 409, 410, 415 – 417, 426, 432, 433, 438, 442, 459, 467, 469 – 473, 481, 487, 488, 491, 494, 503, 504, 519, 523, 527, 529 – 531, 533, 535, 540, 542) were approved with conditions by the Committee or the Board on review between 2003 and 2018 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 “V” zone at the time of consideration; the proposed developments were able to be connected to the planned sewerage system; not incompatible with the surrounding environment; and/or the application site was the subject of previously approved application.
- 6.3 The other 27 applications (No. A/NE-KLH/300, 303, 312, 314, 315, 333, 334, 358 (partial), 361, 380, 430, 439 – 441, 443, 444, 455, 478, 479, 483, 484, 521, 526, 537, 538, 544 and 546) were 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 proposed septic tank arrangement outside the application site was not

acceptable; and 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 and 546 rejected by the Committee in 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.

6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard paved and fenced off;
- (b) located entirely within the ‘VE’ of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai;
- (c) within the upper indirect WGG; and
- (d) accessible by a footpath or via local track leading to Fanling Highway in the west.

7.2 The surrounding areas are predominantly rural in character occupied by village houses, temporary domestic structures and abandoned agricultural fields.

8. Planning Intentions

8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

8.2 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 application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone ?</p> <ul style="list-style-type: none"> - Footprint of the Proposed Small House - Application site 	<p>43%</p> <p>45%</p>	<p>57%</p> <p>55%</p>	<ul style="list-style-type: none"> - The remaining portions of the Site and Small House’s footprint fall within the “AGR” zone.
2.	<p>Within village ‘environs’ (‘VE’)?</p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - The Site and the footprint of the proposed Small House fall entirely within ‘VE’. - The District Lands Officer/Tai Po, Lands Department (DLO/TP of LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?</p>		<p>✓</p>	<ul style="list-style-type: none"> - Land required to meet Small House demand : about 12.13 ha (equivalent to 485 Small House sites). The outstanding Small House applications are 128¹ while the 10-year Small House demand forecast for the same villages is 357. - Land available to meet Small House demand within the “V” zone of the villages concerned : about 6.75 ha (equivalent to 270 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		<p>✓</p>	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from agricultural development point of view as the Site is vacant and is the front yard of a domestic house, the potential for agricultural rehabilitation is considered low.

¹ Among the 128 outstanding Small House applications, there are 29 Small House applications straddling or outside the “ V” zone that have already obtained planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character mainly comprising village houses.
6.	Within Water Gathering Ground (WGG)?	✓		- The Site falls within the upper indirect WGG and is less than 30m from the nearest watercourse. The Director of Environmental Protection (DEP) and the Chief Engineer/Construction of Water Supplies Department (CE/C of WSD) have no objection to the application provided that an approval condition requires the connection of the foul water drainage system of the proposed Small House development to the public sewers is included.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no in-principle objection to the application from traffic engineering viewpoint.
10.	Drainage impacts?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the proposed Small House and advises that as there is no existing public drain available for connection in this area, approval condition on submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impacts?	✓		- The proposed connection to the public sewer at Kau Lung Hang San Wai is feasible and capacity is available. DEP has no objection to the application.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view as no adverse impact on landscape resources from the proposed development is anticipated. - An approval condition requires the submission and implementation of tree preservation proposal is recommended.
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Other detailed comments are at **Appendix IV**.

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Engineer/Mainland North, Drainage Services Department;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Commissioner for Transport;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Director of Environmental Protection;
- (g) Director of Fire Services;
- (h) District Lands Officer/Tai Po, Lands Department; and
- (i) Director of Electrical and Mechanical Services.

9.3 The following Government departments have no comment on / no objection to the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Consultants Management, Drainage Services Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and

- Development Department;
- (d) Project Manager/New Territories East, Civil Engineering and Development Department; and
 - (e) District Officer/Tai Po, Home Affairs Department.

10. **Public Comment Received During Statutory Publication Period**

On 22.12.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. **Planning Considerations and Assessments**

- 11.1 The Site falls partly within “V” (about 45%) and partly within “AGR” (about 55%) zones. Whilst the proposed NTEH (Small House) is always permitted within the “V” zone, it is not in line with the planning intention of the “AGR” zone which is primarily intended to retain and safeguard good quality agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. As the potential for agricultural rehabilitation on the Site is considered low, DAFC has no strong view on the application from agricultural development point of view.
- 11.2 According to DLO/TP of LandsD’s records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang is 128 while the 10-year Small House demand forecast is 357. Based on the latest estimate by the Planning Department, about 6.75 ha (equivalent to about 270 Small House sites) of land are available within the “V” zone of Yuen Leng and Kau Lung Hang. As more than 50% of the proposed Small House footprint falls within the ‘VE’ of the concerned villages, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site is hard paved and fenced off (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses and fallow agricultural land (**Plans A-2a and A-4**). CTP/UD&L of PlanD has no objection to the application from the landscape planning point of view as no adverse impact on landscape resources from the proposed development is anticipated. As there are four young trees found within the Site, an approval condition requiring the applicant to submit and implement a tree preservation proposal is recommended should the application be approved by the Committee.
- 11.4 The Site is within the upper indirect WGG and located within 30m of a watercourse. As advised by DEP, the planned public sewer to serve the Site is part of the Yuen Leng village sewerage scheme, which has been degazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption, and currently there is no fixed timetable for implementing the said sewerage scheme. In view of this, the applicant proposed in the further information (**Appendix Ia**) to connect the

proposed Small House to the existing public sewer to the north of the Site at Kau Lung Hang San Wai. The public sewer manhole is at about 20m away from the Site. As the public sewer has sufficient capacity to accommodate the discharge from the proposed Small House, and there is sufficient level drop in between, DEP has no adverse comment on the applicant's proposed connection to this public sewer. DEP and CE/C of WSD have no objection to the application provided that an approval condition requires the connection of the foul water drainage system of the proposed Small House development to the public sewer is imposed should the application be approved by the Committee. Other Government departments consulted including C for T, CE/MN of DSD, CHE/NTE of HyD and D of FS have no objection to/adverse comment on the application.

- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai (**Plan A-2a**). While land available (about 6.75 ha or equivalent to about 270 Small House sites) within the "V" zone is insufficient to fully meet the future Small House demand (357 Small House sites), it is capable to meet the outstanding 128 Small House applications (**Plan A-2b**). In this regard, it is considered more appropriate to concentrate the proposed Small House development within the "V" zone for orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is located in close proximity to the existing village cluster and there are similar applications approved in its vicinity (**Plans A-2a** and **A-3**). The Site is also the subject of two previously approved planning applications (No. A/NE-KLH/375 and 450) for the same use submitted by the same applicant. Compared with the previous applications, the development parameters and disposition of the proposed Small House remain the same. Under the last application No. A/NE-KLH/450, DEP advised that STSS could be used in the interim before the public sewer was available. For the current application, the proposed Small House is able to be connected to the existing public sewer in Kau Lung Hang San Wai and the applicant has submitted a sewerage connection proposal. In addition, as advised by DLO/TP of LandsD, the Small House application at the Site has been approved in July 2015 subject to terms and conditions imposed by LandsD. Therefore, special consideration can be given to the current application.
- 11.6 There are four similar applications (No. A/NE-KLH/370, 494, 533 and 540) in close vicinity of the Site, which were approved with conditions by the Committee between 2008 and 2017 (**Plan A-2a**) mainly on the considerations of being generally in compliance with the Interim Criteria in that more than 50% of the Small House footprints fell within the 'VE'; there was a general shortage of land in meeting the demand for Small House development in the "V" zone of the concerned villages at the time of consideration; they were not incompatible with the surrounding area; the proposed Small Houses were able to be connected to the planned sewerage system in the area; and/or there were applications approved in the vicinity with similar planning circumstances. Their planning circumstances are similar to those of the current application. For the two similar applications (No. A/NE-KLH/440 and 441) to the immediate east of the Site (**Plan A-2a**) which were rejected by the Board on

review on 1.2.2013, the rejection reasons were that the proposed Small Houses were not able to be connected to the planned sewerage system in the area as there was no implementation programme at that juncture; the proposed septic tank arrangement outside the application sites was not acceptable; and the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewage disposal impacts on the surrounding areas. Application No. A/NE-KLH/481, which is the subject of the previously rejected application No. A/NE-KLH/440, was subsequently approved on 22.8.2014 on sympathetic grounds that the footprint of the proposed Small House had shifted to be entirely within the “V” zone; a SSTS was proposed within the original “V” zone to address the sewage disposal issue; and DEP and DWS had no objection to such interim measure on conditions, inter alia, that the applicant would connect the proposed Small House to the public sewer when it was available in future at his own costs.

11.7 There is no public comment on the application.

12. Planning Department’s Views

12.1 Based on the assessments made in paragraph 11, 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 18.5.2022, 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 also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of tree preservation 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 of the proposed Small House development 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**.

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

- (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 planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("V") zone of Yuen Leng and Kau Lung Hang which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

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.

Attachments

Appendix I	Application form and attachment
Appendix Ia	Further information on sewerage proposal submitted on 20.3.2018
Appendix II	Interim Criteria
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Layout plan including sewerage connection submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photo