

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/547

<u>Applicant</u>	Mr. CHAN Kwok Sing
<u>Site</u>	Government Land in D.D.9, Kau Lung Hang Village, Kau Lung Hang, Tai Po, N.T.
<u>Site Area</u>	About 65.03 m ²
<u>Land Status</u>	Government Land
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Kau Lung Hang, Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Kau Lung Hang OZP No. S/NE-KLH/11. According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “GB” 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

1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively.

¹ As advised by DLO/TP, LandsD, the applicant’s eligibility of Small House grant has not been ascertained.

- 1.4 The Site is the subject of two previous applications (No. A/NE-KLH/338 and 408) submitted by the same applicant for the same use. The former application was rejected by the Rural and New Town Planning Committee (the Committee) on 15.7.2005, whereas the latter one was approved with conditions on 25.6.2010. Comparing with the last application (No. A/NE-KLH/408), the footprint and development parameters of the proposed Small House under current application remain the same.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachments received on **(Appendix I)** 4.4.2018
 - (b) further information providing a sewerage **(Appendix Ia)** connection proposal received on 10.4.2018

2. Justifications from the Applicant

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

- (a) the Site is the subject of a previous application (No. A/NE-KLH/408) approved in July 2010;
- (b) a letter dated 5.2.2014 from District Lands Office/Tai Po, Lands Department (DLO/TP, LandsD) stating that there were still several procedures for processing the Small House application and the applicant was advised to apply for an Extension of Time (EOT) of the planning permission with the Board. The application of the EOT for commencement of approved development was approved by the Board in May 2014; and
- (c) the applicant has urged DLO/TP to process his application in the past few years but without much progress. DLO/TP recently informed the applicant that the application has been classified as “non-straightforward” case, and advised the applicant to extend once again the planning permission with the Board as they need more time to process the Small House application.

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

As the application site involves Government land only, the “owner’s consent/notification” 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) is not applicable to the application.

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

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. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in the “GB” zone;
- (b) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of NTEH, a plot ratio up to 0.4 for residential development may be permitted;
- (c) applications for NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications (No. A/NE-KLH/338 and 408) submitted by the same applicant for a Small House development. Application No. A/NE-KLH/338 was rejected by the Committee mainly for the reasons of not complying with the Interim Criteria in that the proposed Small House was not in line with the planning intention of the “GB” zone; not able to be connected to the existing or planned sewerage system in the area; and insufficient information in the submission to demonstrate that the proposed development would not have adverse drainage impacts.

- 6.2 Application No. A/NE-KLH/408 was approved with conditions by the Committee on 25.6.2010 mainly because the application generally meets the Interim Criteria in that the proposed Small House would be able to be connected to the planned sewerage system, which was scheduled to be completed in 2016/2017.
- 6.3 Details of the previous applications are summarized at **Appendix III**.

7. **Similar Applications**

- 7.1 There are 14 similar applications for NTEH (Small House) development in the same “GB” zone and in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.
- 7.2 Three applications (No. A/NE-KLH/335 to 337) were rejected by the Committee on 15.7.2005 mainly for reasons of being not in line with the planning intention of “GB” zone; not in compliance with the Interim Criteria in that the proposed house was not able to be connected to the planned sewerage system in the area; and adverse drainage and slope stability impacts.
- 7.3 Application No. A/NE-KLH/419 was rejected by the Board on review on 21.1.2011 mainly for reasons of being not in compliance with the Interim Criteria in that the proposed house fell outside “V” zone and the ‘VE’ and was not able to be connected to the planned sewerage system; not complying with the TPB PG-No. 10 in that the proposed development would affect the existing natural landscape of the area; and setting of undesirable precedent.
- 7.4 Another five applications (No. A/NE-KLH/461, 462, 495, 496 and 534) were rejected by the Committee/the Board on review between 2014 and 2017 mainly for reasons of being not in line with the planning intention of “GB” zone; not in compliance with the Interim Criteria in that the proposed developments would cause adverse landscape impact and affect the existing natural landscape on the surrounding environment; and land was still available within the “V” zone for Small House development at the time of consideration.
- 7.5 Applications No. A/NE-KLH/357, 401 and 437 were approved in 2007, 2010 and 2012 respectively mainly on consideration that the applications complied with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the ‘VE’, there was a general shortage of land in meeting the Small House demand in the “V” zone at times of consideration, the proposed houses would be able to be connected to the planned sewerage system in the area; and the proposed development would not involve extensive clearance of existing natural vegetation or affect the existing natural landscape. Applications No. A/NE-KLH/ 412 and 413 cover the same site of the rejected applications No. A/NE-KLH/ 336 and 337 respectively. They were approved in 2010 mainly because the proposed houses would be able to be connected to the planned public sewerage system and there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration.
- 7.6 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) entirely within the village ‘VE’ of Kau Lung Hang Lo Wai, Kau Lung Hang San Wai and Yuen Leng;
- (b) located at the northern fringe of Kau Lung Hang Lo Wai and to the north of Kau Lung Hang Ecologically Important Stream (EIS);
- (c) a piece of abandoned field covered with grass with a temporary structure; and
- (d) accessible by a local track.

8.2 The surrounding areas are predominantly rural in character with village houses, temporary structures and agricultural fields. There are three NTEHs to the west of the site. The Kau Lung Hang EIS which runs westward is located about 10m to the south of the site.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 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.	Within “V” zone? - Footprint of the Small House - Application site		100% 100%	- The Site and the footprint of the proposed Small House fall entirely within the “GB” zone.
2.	Within village ‘environs’ (‘VE’)? - Footprint of the Small House - Application site	100% 100%		- The Site and the footprint of the proposed Small House fall entirely within ‘VE’ of Kau Lung Hang Lo Wai, Kau Lung Hang San Wai and Yuen Leng. - DLO/TP, LandsD has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House		✓	- Land required to meet Small House demand: about 12.18 ha (equivalent

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	applications and 10-year Small House demand?			<p>to 487 Small House sites). The outstanding Small House applications are 130 while the 10-year Small House demand forecast for the same villages is 357.</p> <p>- Land available to meet Small House demand within the “V” zone of the villages concerned: about 6.77 ha (equivalent to 270 Small House sites) (Plan A-2b).</p>
4.	Compatible with the planning intention of “GB” zone?		✓	<p>- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the proposed development is located adjacent to existing Small Houses and may only affect some young, common fruit trees.</p>
5.	Compatible with surrounding area/development?	✓		<p>- The surrounding areas are rural in character with village houses, temporary structures and agricultural fields.</p>
6.	Within Water Gathering Ground (WGG)?	✓		<p>- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House would be able to be connected to the newly constructed public sewerage system.</p> <p>- Approval conditions on connection to public sewers and provision of protective measures to WGG are required.</p> <p>- Regarding the proximity of the application site to the Kau Lung Hang EIS to the south (Plan A-2), DAFC advises that should the Board approve the application, the applicant should be advised to follow the Buildings Department’s Practice Note for Authorized Persons and Registered Structural Engineers No. ADV-27 (Appendix C) to minimize the impacts to the EIS.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service 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 general reservation on the application but considers the application only involving development of a Small House can be tolerated.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is recommended.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the Small House to the newly constructed public sewerage at Kau Lung Hang Lo Wai and advises that sewer connection is feasible and capacity is available for the proposed Small House development.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from the landscape planning point of view as approval of the application will set an undesirable precedent to encourage similar applications encroaching onto the “GB” zone.
13.	Geotechnical impact?		✓	- The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Detailed comments from Government departments are at **Appendix V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department; and
- (c) District Officer (Tai Po), Home Affairs Department.

11. Public Comment Received During Statutory Publication Period

On 13.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment (**Appendix VI**) was received from an individual objecting to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; and the Site does not belong to the applicant.

12. Planning Considerations and Assessments

12.1 The Site falls entirely within the “GB” zone. The proposed Small House is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. As the Site is located adjacent to existing Small Houses and may only affect some young, common fruit trees, DAFC has no strong view on the application.

12.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Kau Lung and Yuen Leng is 130 while the 10-year Small

House demand forecast for the same villages is 357. Based on the latest estimate by the Planning Department, about 6.77 ha (or equivalent to about 270 Small House sites) of land are available within the “V” zone of Yuen Leng, Kau Lung Hang Lo Wai and San Wai Village. As the footprint of the proposed Small House falls entirely within ‘VE’, DLO/TP, LandsD has no objection to the application.

- 12.3 The Site is located at the northern fringe of Kau Lung Hang Lo Wai where existing village houses can be found to the immediate west of the Site. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses (**Plans A-2a and A-3**). CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective. Whilst adverse impact on significant landscape resources arising from the proposed development is not anticipated, approval of the application would set an undesirable precedent to encourage similar applications encroaching onto the “GB” zone, the cumulative effect of approving similar applications would result in degradation of landscape character and cause adverse landscape impact to the area.
- 12.4 The Site is within the upper indirect WGG. The applicant has proposed to connect the proposed Small House to the public sewerage system in Kau Lung Hang Lo Wai (**Plan A-2a and Drawing A-2**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed Small House to the public sewer at his own cost and adequate space within the Site will be reserved for connection. C for T in general has reservation on the application but considers that the application only involving the development of a Small House can be tolerated. Other relevant Government departments including CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the ‘VE’ of Yuen Leng and Kau Lung Hang, and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available (about 6.77 ha or equivalent to about 270 Small House sites) (**Plan A-2b**) within the “V” zone is insufficient to fully meet the future Small House demand, it is capable to meet the outstanding 130 Small House applications. As such, based on the more cautious approach adopted by the Board in recent years, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. Nevertheless, the Site is the subject of a previously approved application (No. A/NE-KLH/408) submitted by the same applicant with no change to the Small House footprint and the development parameters. Moreover, the applicant states that his Small House application is still being processed by LandsD since the previous approval (Application No. A/NE-KLH/408) was granted in 2010 and that DLO/TP has advised the applicant that the Small House application was a “non-straightforward” case and more time is required to process and resolve the issues related to the Small House application. Hence, sympathetic consideration may be given to the current application.
- 12.6 There are 8 similar applications in close vicinity of the Site (**Plan A-2a**). Application No. A/NE-KLH/357 was approved in 2007 as the proposed development complied with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the ‘VE’ of the concerned villages, there was a general shortage of land in meeting the demand for Small House development in the “V”

zone at the time of consideration and the proposed Small House was able to be connected to the planned sewerage system in the area. Three sites under Applications No. A/NE-KLH/335 to 337 were rejected by the Committee in 2005 mainly on the ground that the proposed houses were not able to be connected to the planned sewerage system in the area. Applications No. A/NE-KLH/412 and 413 (mainly cover the same site of rejected Applications No. A/NE-KLH/336 and 337) were subsequently approved in 2010 as the proposed houses would be able to be connected to the planned public sewerage system and there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration. Although the site of Application No. A/NE-KLH/534 forms part of a previous application No. A/NE-KLH/401 approved by the Committee in 2010, the application was rejected in 2017 as it was submitted by another applicant with the application site and the footprint of the proposed house falling entirely within the “GB” zone. While the proposed house is able to be connected to public sewer, land was still available within the “V” zone to meet outstanding Small House applications. Considering that the application has no previous approval, it was rejected by the Committee based on the Board’s adoption of a more cautious approach in approving applications for Small House development in recent years. Hence, the planning circumstances of the current application with a previous approved case (Application No. A/NE-KLH/408) are different from Application No. A/NE-KLH/534.

- 12.7 There is one public comment received objecting to the application mainly on the ground of being not in line with the planning intention of “GB” zone, the planning assessments and comments of concerned Government departments in the above paragraphs are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 1.6.2022, 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 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; and
- (c) 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 VII**.

- 13.3 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 "GB" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification given in the submission for a departure from the planning intention of the "GB" zone; and
 - (b) land is still available within the "V" zone of Yuen Leng, Kau Lung Hang Lo Wai and Kau Lung Hang San Wai where land is primarily intended for Small House development. 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 infrastructure and services.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application form received on 4.4.2018
Appendix Ia	Further Information received on 10.4.2018
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	Detailed comments from relevant Government departments
Appendix VI	Public comment
Appendix VII	Recommended Advisory clauses
Drawing A-1	Site plan submitted by the applicant

Drawing A-2	Sewerage connection proposal 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 the "V" Zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2018**