

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

**APPLICATION NO. A/NE-KLH/550**

<b><u>Applicant</u></b>	Mr. LEE Kelvin Ka Wai represented by Ms. YEUNG Foon Tai
<b><u>Site</u></b>	Lot 704 S.B in D.D. 9, Yuen Leng Village, Tai Po, N.T.
<b><u>Site Area</u></b>	About 125 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<b><u>Zoning</u></b>	“Green Belt” (“GB”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Shuen Wan Wai Ha Village, Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). 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 Small House development are as follows:

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

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

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<sup>1</sup> 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 a previous application No. A/NE-KLH/247 submitted by a different applicant for the same use. The application was approved by the the Rural and New Town Planning Committee (the Committee) on 22.12.2000. Compared with the previous application, the Small House footprint and the development parameters under the current application are the same.
- 1.5 In support of the application, the applicant has submitted an application form dated 3.5.2018 with attachments (**Appendix I**).

## **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 follow:

- (a) the Site is a piece of vacant agricultural land which has been abandoned for many years;
- (b) the Site is located within the village ‘environs’ (‘VE’) of Yuen Leng Village, and there are many existing Small House developments in close proximity to the Site;
- (c) the proposed Small House development will not involve clearance of vegetation or site formation works;
- (d) there are planned public sewers and manholes in the vicinity of the Site. The proposed Small House can be connected to the public sewerage system and would not cause any adverse environmental impact to the surrounding area;
- (e) the applicant undertakes to adopt measures and follow the guidelines of relevant Government departments to avoid any pollution to the river and surrounding area during the construction of the Small House development;
- (f) the proposed development will not cause adverse environmental and landscape impacts; and
- (g) the Site is the only piece of land owned by the applicant.

## **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 grounds (WGGs), 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 below:

- (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 Application**

- 6.1 The Site is the subject of a previous application No. A/NE-KLH/247 submitted by a different applicant for a Small House development, which was approved with conditions by the Committee on 22.12.2000 mainly for the reasons of being in compliance with the Interim Criteria in that the application site fell within the 'VE' and there was a general shortage of land within the "V" zone for Small House development at the time of consideration. The application

was approved before the incorporation of criterion (i) in the Interim Criteria on 23.8.2002, which requires that the application site, if located within WGGs, should be able to be connected to the existing or planned sewerage system in the area. Nevertheless, as the Site fell within WGG, an approval condition was imposed requiring the provision of septic tank and soakaway pits for foul effluent disposal and the sewage connection at a distance of not less than 30m from any watercourses to the satisfaction of the Director of Water Supplies or of the TPB. Subsequently, the planning permission lapsed on 23.12.2003.

- 6.2 Details of the previous application are summarised in **Appendix III** and the location is shown on **Plan A-2a**.

## 7. **Similar Applications**

- 7.1 There are 11 similar applications (No. A/NE-KLH/246, 254, 258, 261, 263, 264, 394, 395, 460, 524 and 528) within 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 Among them, six applications (No. A/NE-KLH/246, 254, 258, 261, 263 and 264) were approved with conditions by the Committee before criterion (i) of the Interim Criteria came into effect on 23.8.2002. They were approved mainly on considerations that the proposed Small Houses generally met the Interim Criteria in that the footprints of the proposed Small Houses had more than 50% falling within the ‘VE’; and there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone.
- 7.3 Two other applications (No. A/NE-KLH/395 and 460), covering the same site and submitted by the same applicant of the approved application No. A/NE-KLH/258, were approved in 2010 and 2014 respectively mainly on considerations of being able to be connected to the planned sewerage system in the area and having previous planning permission granted.
- 7.4 The remaining three applications (No. A/NE-KLH/394, 524 and 528) were rejected by the Committee/the Board on review in 2010 and 2017 mainly for reasons of being not in compliance with the Interim Criteria in that the proposed development was not able to be connected to the planned sewerage system in the area; and having adverse sewerage impact on the surrounding areas. Applications No. A/NE-KLH/524 and 528 were also rejected as land was still available within the “V” zone of Yuen Leng and Kau Lung Hang for Small House development at the times of consideration.
- 7.5 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

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

8.1 The Site is:

- (a) partly covered with grasses, and partly paved with asphalt; and
- (b) located to the west of a streamcourse.

8.2 The surrounding areas are predominantly rural in character with a mix of village houses, active and fallow agricultural land, and tree groups. There is a stream course running northwards to the east of the Site and the natural hillslope to the further east (**Plan A-2a**). Village cluster of Yuen Leng is mainly located to the west and northwest 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’.  - District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small		✓	- Land required to meet Small House demand : about 12.18 ha (equivalent to 487 Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	House applications and 10-year Small House demand?			<p>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 10-year Small House demand within the “V” zone of the villages concerned : about 6.77 ha (equivalent to 270 Small House sites) (<b>Plan A-2b</b>).</p>
4.	Compatible with the planning intention of “GB” zone?		✓	<p>- There is a general presumption against development within the “GB” zone.</p> <p>- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is partly covered with common herbs and weeds.</p>
5.	Compatible with surrounding area/ development?	✓		<p>- The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with active / fallow agricultural land, tree groups and village cluster to the west and northwest of the Site.</p>
6.	Within Water Gathering Ground (WGG)?	✓		<p>- The Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) objects to the application as there is no programme for the construction of planned public sewers to serve Yuen Leng Village.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<p>- The Director of Fire Services (D of FS) has no in-principle objection to the application.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has general reservation on the application but considers the application only involves development of one Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impacts?	✓		- 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 impacts?	✓		- The Chief Engineer/Consultants Management, Drainage Services Department (CE/CM, DSD) advises that since the proposed sewerage scheme under North District Sewerage, Stage 2 Phase 1 for Yuen Leng Village was degazetted on 29.10.2010, there is no fixed programme at this juncture for the implementation of the concerned sewerage works.  - The Director of Environmental Protection (DEP) does not support the application as the Site falls completely outside the “V” zone, within WGG, and no public sewer will be available to serve the proposed Small House in the near future.
12.	Landscape impact?		✓	- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as adverse impact to

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>significant landscape resources is not anticipated.</p> <p>- Since the footprint of proposed house covers most of the Site, there is inadequate space for landscaping within the Site. Should the Board approve the application, the standard condition on submission and implementation of landscaping proposal is not recommended.</p>
13.	Geotechnical impact		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Other detailed comments 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 and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Consultants Management, Drainage Services Department;
- (g) Director of Agriculture, Fisheries and Conservation;
- (h) Director of Fire Services;
- (i) Chief Engineer/Construction, Water Supplies Department;
- (j) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (k) Director of Electrical and Mechanical Services.

10.3 The following Government departments have no comment on / no objection to 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 Comments Received During Statutory Publication Period (Appendix VI)**

On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, four public comments were received from Designing Hong Kong Limited and three individuals objecting to the application mainly for reasons of being not in line with the planning intention of “GB” zone; adverse sewerage, environment and traffic impacts; similar application in the vicinity was rejected; land is still available within “V” zone; and setting of undesirable precedent.

## **12. Planning Considerations and Assessments**

- 12.1 The Site falls entirely within the “GB” zone. The proposed Small House development is not in line with the planning intention of “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. DAFC has no strong view on the application as the Site is partly covered with common herbs and weeds.
- 12.2 The applicant is an indigenous villager of Shuen Wan Wai Ha Village. The proposed development is a cross-village application. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Yuen Leng, Kau Lung Hang San Wai and Lo Wai Villages is 130 while the 10-year Small House demand forecast 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 subject “V” zones. As the proposed Small House footprint falls entirely within the ‘VE’ of the concerned villages, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site, located to the east of Yuen Leng Village, is vacant and partly covered with grass and weeds and partly paved with asphalt (**Plans A-1 and A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses, active and fallow agricultural land and tree groups (**Plans A-2a and A-4**). CTP/UD&L of PlanD has no objection to the application as adverse impact to significant landscape resources caused by the proposed development is not anticipated.
- 12.4 The Site is within the upper indirect WGG. According to DEP and CE/CM of DSD, the planned sewerage scheme for Yuen Leng Village was degazetted on 29.10.2010 due to conflicting views among some of the land owners over the extent of proposed land resumption, and there is currently no fixed implementation programme for the concerned public sewerage works. DEP does not support the application as the Site falls completely outside the “V”

zone and within the WGG, and no public sewerage will be available to serve the proposed Small House in the near future. CE/C of WSD also objects to the application as there is no programme for the construction of the planned public sewers to serve Yuen Leng Village. As such, the proposed development does not comply with the Interim Criteria. Besides, C for T has general reservation on the application as such development should be confined within “V” zone as far as possible, but considers that the application only involves the development of a Small House can be tolerated unless it is rejected on other grounds. Other Government departments consulted including CHE/NTE of HyD and D of FS have no objection to/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, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai (**Plan A-1**). While land available (about 6.77 ha or equivalent to about 270 Small House sites) within the “V” zone is insufficient to fully meet the future Small House demand, it is capable to meet the 130 outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, 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 infrastructures and services.
- 12.6 The Site is the subject of a previous application No. A/NE-KLH/247 for Small House development approved by the Committee on 22.12.2000. The planning permission subsequently lapsed on 23.12.2003. According to the Interim Criteria, application with previous permission lapsed will be considered on its own merits. Given that the current application is submitted by a different applicant, the Site locating within the WGG is not able to be connected to the existing/planned public sewerage system and the applicant fails to demonstrate that the proposed development would not cause adverse impact on the water quality in the area, sympathetic consideration could not be given to the current application.
- 12.7 There are six similar applications (No. A/NE-KLH/246, 254, 258, 261, 263 and 264) approved between 2000 and 2001 (**Plans A-1 and A-2a**) mainly on the considerations that they were 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; the proposed Small Houses were able to be connected to the planned sewerage system in the area at the time of consideration; and the proposed development would not cause adverse impacts on the surrounding area. Two other applications (No. A/NE-KLH/395 and 460) covering the same site of the approved application No. A/NE-KLH/258 were approved by the Committee in 2010 and 2014 respectively mainly on the ground of having previous planning permission granted, and being able to be connected to the planned sewerage system in the

area. The remaining three applications (No. A/NE-KLH/394 524, and 528) were rejected by the Committee/the Board on review in 2010 and 2017 respectively mainly for reasons of being not in compliance with the Interim Criteria in that the proposed development was not able to be connected to the planned sewerage system in the area and having adverse sewerage impact on the surrounding areas. Applications No. A/NE-KLH/524 and 528 were also rejected as land was still available within the “V” zone for Small House development. The circumstances of those rejected applications are similar to the current application.

- 12.8 Regarding the public comments objecting to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; causing adverse sewerage, environmental and traffic impacts; similar application in the vicinity was rejected; land being still available within “V” zone; and setting of undesirable precedent, 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 comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “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 provided in the submission to justify a departure from the planning intention;
  - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the applicant fails to demonstrate that the proposed development located within the water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
  - (c) land is still available within the “Village Type Development” (“V”) zone of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.6.2022, 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 a 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 protection 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**.

**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.

**Attachments**

Appendix I	Application form and attachments received on 3.5.2018
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses

Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Sewerage connection proposal
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 photos

**PLANNING DEPARTMENT  
JUNE 2018**