RNTPC Paper No. A/NE-KLH/563 and 564 For Consideration by the Rural and New Town Planning Committee on 22.3.2019

APPLICATION FOR PERMISSION UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-KLH/563 and 564

Mr. WONG Koon Tai Eddie **Applicants**

(Application No. A/NE-KLH/563)

Mr. WONG Yee Hoi

(Application No.

A/NE-KLH/564)

All represented by Mr. LI Kin Ming, Vincent

Sites

Lot 309 RP

(Application No. A/NE-KLH/563)

Lot 309 S.A RP

(Application No. A/NE-KLH/564)

All in D.D. 9, Kau Lung Hang, Tai Po, N.T.

Site Areas

About 114 m²

(Application No. A/NE-KLH/563)

About 138 m²

(Application No.

A/NE-KLH/564)

Lease

Block Government Lease (demised for agricultural use)

Plan

Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11

Zonings

"Village Type Development" ("V")

(Application No. A/NE-KLH/563)

(about 21% of the site) "Agriculture" ("AGR")

(about 79% of the site)

"V" (about 26% of the site)

(Application No. A/NE-KLH/564)

"AGR" (about 74% of the site)

Applications Proposed House (New Territories Exempted House (NTEH) - Small House) at each of the application sites

1. The Proposal

The applicants, indigenous villagers of Pak Sha O as confirmed by the 1.1 Indigenous Inhabitant Representative (IIR) of the concerned village¹, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (Plan A-1). According to the Notes of the OZP, whilst 'House (NTEH only)' is always permitted within the "V" zone, 'House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)' within "AGR" zone requires planning permission from the Town Planning Board (the Board).

District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the eligibility of Small House grant has yet to be ascertained.

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

:

Total floor area

195.09m²

Number of storeys Building height

8.23m

3

Roofed over area

65.03m²

1.3 Layouts of the proposed Small Houses including the sewerage connection proposals are shown on **Drawings A-1** to **A-4** respectively.

- 1.4 The Sites are parts of the subject of two previous applications No. A/NE-KLH/310 and 311 for the same use submitted by the same applicants, which were approved with conditions by the Rural and New Town Planning Committee (the Committee) on 30.5.2003. These planning permissions lapsed on 31.5.2007 as the approved developments did not commence within the validity period. Compared with the previous applications, except the reduction of site area and changes in the disposition of the Small Houses, there is no change in other major development parameters.
- 1.5 In support of the applications, the applicants have submitted the following documents:
 - (a) application forms with attachments received on (Appendices Ia and Ib) 29.1.2019
 - (b) Further Information received on 4.3.2019 (Appendix Ic) providing revised sewerage connection proposals (accepted and exempted from publication and recounting requirements)
 - (c) Further Information received on 7.3.2019 (Appendix Id) providing responses to departmental comment (accepted and exempted from publication and recounting requirements)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the respective application forms at **Appendices Ia** and **Ib**. They can be summarized as follows:

- (a) the proposed Small Houses will be built on vacant agricultural land;
- (b) there is no other land available for development of the proposed Small Houses; and
- (c) there are similar Small Houses built in the vicinity of the application sites.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owners". 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 (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 Sites are parts of the subject of two previous applications No. A/NE-KLH/310 and 311 for the same use submitted by the same applicants, which were approved with conditions by the Committee on 30.5.2003 mainly on the considerations of being generally in compliance with the Interim Criteria in that the Small House developments fell entirely within the 'VE'; and the proposed Small Houses were able to be connected to the planned sewerage system in the area. These planning permissions lapsed on 31.5.2007 as the approved developments did not commence within the validity period. Compared with the previous applications, except the reduction in site area (i.e. from 155.86m² to 114m² and from 152.15m² to 138m² for applications No. A/NE-KLH/563 and 564 respectively due to exclusion of those parts of the lots for the stream training project) and changes in the disposition of the Small Houses, there is no change in other major development parameters.
- 5.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 98 similar applications for Small House development within the same "AGR" zone 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 before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Since then, 63 applications were approved (including one partially approved application) and 27 applications were rejected.
- 6.2 A total of 46 applications (No. A/NE-KLH/304, 328, 339, 341, 343 347, 351, 352, 368, 370, 372, 375, 378, 379, 397, 400, 403, 406, 407, 409, 410, 415 417, 426, 432, 433, 438, 442, 450, 459, 467, 469 473, 481, 482, 487, 488, 491 and 494) were approved between 2003 and 2015 before the adoption of a

more cautious approach by the Board. These applications were approved 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 development was able to be connected to the planned sewerage system; the application site was the subject of a previously approved case; and/or the proposed house was considered as an infill development.

- After the Board's adoption of a more cautious approach, there are 15 applications (No. A/NE-KLH/503, 504, 519, 523, 529 531, 533, 535, 540 542 and 553 555) approved with conditions by the Committee between 2016 and 2018. While land was still available within the "V" zone to meet the outstanding Small House applications being processed by LandsD, applications No. A/NE-KLH/503, 504, 523, 529, 530, 531, 535, 541, 542 and 553 555 were approved mainly because there was previous approval whereas applications No. A/NE-KLH/519, 533 and 540 were approved mainly because the proposed house was considered as an infill development.
- 6.4 Application No. A/NE-KLH/358 for four Small Houses was partially approved with conditions by the Committee on 23.3.2007. Two proposed Small Houses were approved for being in compliance with the Interim Criteria in that more than 50% of the footprint of proposed Small Houses locating within the 'VE'; there was a general shortage of land in meeting the demand for Small House development in the "V" zone; and being able to be connected to the planned sewerage system. The other two proposed Small Houses were rejected mainly because they were not able to be connected to the existing or planned sewerage system in the area. Subsequently, application No. A/NE-KLH/527 being the subject of the approved portion of application No. A/NE-KLH/358, was approved by the Committee on 12.5.2017 mainly on sympathetic consideration as there was previous approval from the same applicant.
- 6.5 There are 27 applications (No. A/NE-KLH/300, 303, 312, 314, 315, 333, 334, 361, 380, 430, 439 – 441, 443, 444, 455, 478, 479, 483, 484, 521, 526, 537, 538, 544, 546 and 549) 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 applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas. applications No. A/NE-KLH/521, 526, 537, 538, 544, 546 and 549 rejected between 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. In addition, application No. A/NE-KLH/483, being the subject of Town Planning Appeal No. 8 of 2015, was dismissed by the Town Planning Appeal Board on 1.9.2016 mainly on the same rejection reasons of the application by the Board on review.
- 6.6 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

6.7 Another two new similar applications No. A/NE-KLH/558 and 559 will be considered by the Committee at the same meeting.

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

- 7.1 The Sites are:
 - (a) located on flat land with groundcovers and weeds;
 - (b) entirely within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Lo Wai; and
 - (c) within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character occupied by village houses and active/fallow agricultural land. There are villages houses to the south and north of the Sites. A streamcourse flowing from east to west is located to the immediate south of the Sites.

8. Planning Intentions

- 8.1 The planning intention of the "V" zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. 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 applications have been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	Yes	<u>No</u>	Remarks
1.	Within "V" zone? Application No. A/NE-KLH/563 - Application site - Footprint of the Small House	21%	79% 98%	- The remaining area of the Site and the footprint of the proposed Small House are within the "AGR" zone.
	Application No. A/NE-KLH/564 - Application site - Footprint of the Small House	26%	74% 84%	- The remaining area of the Site and the footprint of the proposed Small House are within the "AGR" zone.
2.	Within 'VE'? - Footprint of the Small Houses - Application sites	100%	-	 The Sites and the footprints of the proposed Small Houses fall entirely within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Lo Wai. District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		*	- Land required to meet Small House demand: about 12.16 ha (equivalent to 484 Small House sites). The outstanding Small House applications are 127 ² while the 10-year Small House demand forecast for the same villages is 357.
	Sufficient land in "V" zone to meet outstanding Small House applications?	√		- Land available to meet Small House demand within the "V" zone of the villages concerned: about 6.41 ha (equivalent to 256 Small House

² Among the 127 outstanding Small House applications, 77 of them fall within the "V" zone and 50 straddle or outside the "V" zone. For those 50 applications straddling or being outside the "V" zone, 15 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	Yes	<u>No</u>	<u>Remarks</u>
				sites) (Plan A-2b).
4.	Compatible with the planning intention of "AGR" zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural development point of view as there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and footpath is available; and the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character occupied by village houses and active/fallow agricultural land.
6.	Within WGG?	✓		 Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications as the proposed Small Houses are able to be connected to the existing public sewerage system in the area. Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?		✓	- Commissioner for Transport (C for T) has no in-principle objection to the applications from traffic engineering point of view.

	<u>Criteria</u>	Yes	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?			- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint as the proposed Small Houses will have at least 3m horizontal clear distance from the top of the embankment of existing streamcourse.
				- an approval condition on submission and implementation of drainage proposal for the Sites is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.
11.	Sewerage impact?	✓		- Chief Engineer / Consultant Management, Drainage Services Department (CE/CM, DSD) advises that village sewerage network has been completed.
				- Director of Environmental Protection (DEP) has no objection to the applications as the applicants have proposed to connect the Small Houses to the public sewerage to the immediate west of the Sites (Plan A-2a).
12.	Landscape impact?		√	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective. As no existing tree is found within the Sites, adverse impact to significant landscape resources is not anticipated.
				- since there is no adequate space for meaningful landscaping within the Sites to benefit the public realm, should the applications be approved by the Board, an approval condition

	<u>Criteria</u>	Yes	<u>No</u>	<u>Remarks</u>
				on submission and implementation of landscape proposal is not 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. 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) Chief Engineer/Construction, Water Supplies Department;
 - (i) Director of Fire Services; and
 - (i) District Officer (Tai Po), Home Affairs Department.
- 9.3 The following Government departments have no objection to/ no comment on the applications:
 - (a) Chief Highway Engineer/New Territories East, Highways Department;
 - (b) Project Manager/North, Civil Engineering and Development Department;
 - (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
 - (d) Director of Electrical and Mechanical Services.

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

On 12.2.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, one public comment for each of the applications were received from an individual objecting to the applications mainly for the reasons of being not in line with the planning intention of "AGR" zone and land being still available in "V" zone.

11. Planning Considerations and Assessments

- 11.1 The sites of Applications No. A/NE-KLH/563 and 564 fall within an area partly zoned "V" (about 21% and 26% respectively) and partly zoned "AGR" (about 79% and 74% respectively). The proposed Small House developments are 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. DAFC does not support the applications from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as water source and footpath are available; and the Sites possess potential for agricultural rehabilitation.
- 11.2 According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang villages is 127 while the 10-year Small House demand forecast is 357. Based on the latest estimate by the Planning Department, about 6.41 ha of land (or equivalent to about 256 Small House sites) are available within the "V" zones of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai (Plan A-2b). As the proposed Small House footprints fall entirely within the 'VE' of the concerned villages, DLO/TP of LandsD has no objection to the applications.
- 11.3 The Sites are located on flat land with groundcovers and weeds. The proposed developments are not incompatible with the surrounding area which is predominantly rural in character occupied by village houses and active/fallow agricultural land (Plans A-2a and A-3). CTP/UD&L of PlanD has no objection to the applications from the landscape planning perspective as no existing tree is found within the Sites and adverse impact to significant landscape resources arising from the proposed developments is not anticipated.
- 11.4 The Sites fall within the upper indirect WGG. The applicants have proposed to connect the proposed Small Houses to the existing public sewerage system to the immediate west of the Sites (Plan A-2a). Both DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost, and adequate space within the Sites will be reserved for connection. CE/MN of DSD has no in-principle objection to the applications from public drainage viewpoint as the proposed Small Houses will have at least 3m horizontal clear distance from the top of the embankment of existing streamcourse. Other relevant Government departments including C for T, CE/CM of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the applications.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Lo Wai and the proposed developments within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the "V" zone (about 6.41 ha or equivalent to about 256 Small House sites) is insufficient to fully meet the future demand of 484 Small Houses, it is capable to meet the 127 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 2015, and 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. Nonetheless, the Sites are the subject of previously approved applications (No. A/NE-KLH/310 and 311) submitted by the same applicants without changes to the major development parameters except reduction in site area and change in disposition of the proposed Small Houses. Hence, sympathetic consideration could be given to the current applications.
- 11.6 According to Plan A-2a, there are 13 similar applications for Small House development within the same "AGR" zone in close proximity to the Sites (Plan A-2a). Application No. A/NE-KLH/259 was approved before criterion (i) of the Interim Criteria came into effect on 3.8.2002; and two applications (No. A/NE-KLH/358 and 426) were approved in 2007 and 2011 before the adoption of a more cautious approach by the Board in 2015. After that, an application No. A/NE-KLH/527 was approved in 2017 mainly on sympathetic consideration as the application site was the subject of previously approved case (No. A/NE-KLH/358). The remaining nine applications were rejected between 2003 and 2018. Applications No. A/NE-KLH/314, 315, 333, 334 and 361 were rejected between 2003 and 2007 mainly on the grounds of not being able to be connected to the planned sewerage system in the area while applications No. A/NE-KLH/521, 537, 538 and 549 were rejected in 2017 and 2018 mainly for the reason of land being still available within the "V" zone to meet the outstanding Small House applications received by LandsD. planning circumstances of the current applications are similar to application No. A/NE-KLH/527, which was approved on sympathetic consideration as the site was the subject of previous approval from the same applicant.
- 11.7 Regarding the public comments objecting to the applications mainly for the reasons of being not in line with the planning intention of "AGR" zone and land being still available in "V" zone, the planning assessments and comments of concerned Government departments in above paragraphs are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department <u>has no objection</u> to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 22.3.2023, 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 for each of the permissions are attached at **Appendix VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, 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 current submission for a departure from the planning intention; and
 - (b) land is still available within the "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 the "V zone for more orderly development pattern, efficient use of land and provision of infrastructure and services

13. <u>Decision Sought</u>

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the applications, 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 applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendices Ia and Ib Application forms and attachments received on 29.1.2019 Appendix Ic Further information submitted by the applicants received on 4.3.2019 Appendix Id Further information submitted by the applicants received on 7.3.2019 Interim Criteria for Consideration of application for NTEH/ Appendix II Small House in New Territories Appendix III Previous applications Appendix IV Similar applications Appendix V Detailed comments from relevant Government departments Appendix VI Public comments Appendix VII Recommended advisory clauses Drawings A-1 to A-4 Site plans and sewerage connection proposals submitted by the applicants 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

PLANNING DEPARTMENT MARCH 2019