

RNTPC Paper No. 1/18

**For Consideration by
the Rural and New Town Planning Committee on 17.8.2018**

**Variation of Approval Condition (c) of the Planning Permission for
the Approved House (New Territories Exempted House - Small House)
at Yuen Leng, Kau Lung Hang, Tai Po under Application No. A/NE-KLH/459**

Variation of Approval Condition (c) of the Planning Permission for the Approved House (New Territories Exempted House (NTEH) - Small House) at Yuen Leng, Kau Lung Hang, Tai Po under Application No. A/NE-KLH/459

1. Purpose

This Paper is to invite Members to consider the request from the applicant, Mr WONG Kai Yip, dated 21.6.2018 (**Appendix I**) to review approval condition (c) of the planning permission under Application No. A/NE-KLH/459.

2. Background

- 2.1 On 17.1.2014, Application No. A/NE-KLH/459 at Lots 650 SBss1 and 651 SAss2 in DD9 (the Site) for a Small House development at Yuen Leng, which was partly zoned “Agriculture” and partly zoned “Village Type Development” (“V”), was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board). The location plan and site plan are shown at **Plans 1** and **2** and the approval letter is attached at **Appendix II**.
- 2.2 For Members’ information, the Site falls within the upper indirect water gathering grounds (WGG) and is the subject of two previous applications (No. A/NE-KLH/339 and 339-1) approved in 2005 and 2009 respectively (**Plan 2**). According to those approvals, the foul water drainage system of the proposed Small House should be connected to public sewers to the satisfaction of the Water Supplies Department (WSD) and the applicant had also been advised that the actual construction of the proposed Small House should only begin after the completion of the public sewerage network. However, the proposed sewerage scheme for Yuen Leng was de-gazetted on 29.10.2010. Since the construction of the proposed Small House could not commence prior to the completion of the public sewerage scheme for Yuen Leng Village, that planning permission lapsed on 30.7.2013.
- 2.3 Subsequently, the same applicant submitted on 5.12.2013 the subject application (No. A/NE-KLH/459) at the same site for the same Small House development. In order to address the sewage issue arising from the proposed Small House in the interim pending the availability of public sewers, the applicant proposed to use septic tank which would be located within the

original “V” zone¹ in Yuen Leng. Both Environmental Protection Department (EPD) and WSD had no objection to such arrangement provided that the septic tank and soakaway system shall be constructed within the Site and within the “V” portion of the Site and in compliance with EPD’s Practice Note for Professional Persons (ProPECC PN) 5/93; and the proposed Small House shall be connected to future public sewers when available.

- 2.4 It is against the above special circumstances that Application No. A/NE-KLH/459 was approved with conditions by the Committee on 17.1.2014. Amongst others, the following approval condition and advisory clause related to sewage disposal arrangement were imposed:

Approval Condition (c)

- the connection of the foul water drainage system of the proposed house to the planned public sewerage system in the area to the satisfaction of the Director of Water Supplies or of the Board

Advisory Clause (b)

- to note the comments of the Director of Environmental Protection (DEP) that the septic tank and soakaway system shall be constructed within the Site and within “V” zone and in compliance with ProPECC PN 5/93. The proposed Small House shall be connected to the future public sewer when available and adequate land shall be reserved for the future sewer connection work

- 2.5 For the subject case, since septic tank and soakaway system was considered as an acceptable interim measure pending the completion of public sewers, the Small House was granted with the Building Licence by LandsD in November 2015 and the Small House has been completed with the provision of septic tank and soakaway system within the “V” zone to the satisfaction of WSD. The applicant therefore requested the Board to review the approval condition (c).

- 2.6 According to Section 46 of the Interpretation and General Clauses Ordinance (Cap. 1), the Committee has the power to amend the permission granted.

3. Justifications from the Applicant

The applicant has provided the following justifications:

- (a) the Chief Engineer/Mainland North (CE/MN) and the Chief Engineer/Consultants Management (CE/CM) of Drainage Services Department (DSD) advise that there is no existing public sewerage in the vicinity of the Site. The sewerage scheme under North District Sewerage, Stage 2 Phase 1 for Yuen Leng was degazetted on 29.10.2010 and there is no fixed programme at this juncture for the concerned public sewerage works;

¹ ‘Original “V” zone’ refers to the area zoned “V” covering Yuen Leng Village since the publication of the first Kau Lung Hang OZP S/NE-KLH/1 on 24.6.1994. Where “V” zone is mentioned in this paper hereafter, it refers to ‘original “V” zone’.

- (b) the DEP advises that the septic tank and soakaway system shall be constructed within the Site and within the “V” zone and in compliance with ProPECC PN 5/93. The proposed Small House shall be connected to the future public sewer when available and adequate land shall be reserved for the future sewer connection work;
- (c) the septic tank and soakaway system has been completed to the satisfaction of the WSD. Nonetheless, the Certificate of Compliance (CC) has yet to be issued; and
- (d) the applicant is committed to reserve adequate space for connection to the public sewerage system when the public sewer is available.

4. Comments from Relevant Government Departments

4.1 The following relevant Government departments have been consulted and their comments are summarised as follows:

4.1.1 Comments of the DEP :

- (a) the planned sewerage scheme for Yuen Leng Village which the subject Small House could be connected to was de-gazetted in October 2010 due to conflicting views among some of the land owners over the extent of proposed land resumption. While the village sewerage scheme for Yuen Leng is still included under the village sewerage programme, and EPD continues to collaborate with the DSD to resolve the persistent disagreements among the concerned land owners, there is currently no fixed timetable for implementing the said sewerage scheme for Yuen Leng;
- (b) the Site falls partially within the “V” zone on Kau Lung Hang OZP and is within the WGG. The applicant proposed the use of septic tank and soakaway system within the “V” zone for handling domestic sewage, and connection of the subject house to the public sewerage system when it is available. During the s.16 application in 2014, DEP had no objection to the application and his previous comments, which remain valid, are recapitulated below:
 - (i) the septic tank and soakaway system shall be constructed in the “V” zone and in compliance with ProPECC PN 5/93 requirements;
 - (ii) the proposed house shall be connected to the planned sewerage system when it is available; and
 - (iii) adequate land shall be reserved for future sewer connection work; and

- (c) taking into account the above, DEP has no objection to vary approval condition (c), having regard to the advisory clause (b) in the approval of Application No. A/NE-KLH/459, and such requirement is in line with his views during the s.16 application in 2014.

4.1.2 Comments of the Chief Engineer/ New Territories East, WSD:

- (a) he considers that the applicant has not fulfilled the requirement to connect the proposed Small House to any public sewerage system as stipulated in the Board's approval letter dated 7.2.2014. The applicant should connect his foul water drain to the public sewer when it is available and a septic tank and soakaway system built according to EPD's requirements mentioned in para. 4.1.1 (b)(i) above would be acceptable as the interim sewage disposal arrangement before the public sewer is available;
- (b) the proposed Small House has been built with septic tank and soakaway system within the Site and the "V" zone. The use of septic tank and soakaway system as an interim measure is in line with EPD's requirements and WSD is satisfied with the septic tank and soakaway system provided within the Site and the "V" zone; and
- (c) no comment to vary approval condition (c) by the provision of septic tank and soakaway system to his satisfaction.

4.2 Other Government departments consulted including District Lands Officer/Tai Po of LandsD and CE/MN of DSD have no comments on the request.

5. **Planning Department's Views**

- 5.1 To protect and safeguard the water quality within WGG, it is the usual practice of the Board to stipulate an approval condition requiring the connection of foul water drainage system of the proposed NTEH/Small House to planned public sewerage system should the application be approved. The applicant would also be advised that the actual construction of the proposed Small House should only begin after the completion of the planned public sewerage network.
- 5.2 For the subject application, whilst the planned sewerage system for Yuen Leng was de-gazetted on 29.10.2010 due to conflicting views among some of the land owners over the extent of the proposed land resumption, the application was approved with conditions by the Committee in 2014 mainly on special and sympathetic considerations that both EPD and WSD had no objection to the applicant's proposal to provide septic tank and soakaway system within the Site and within the "V" zone as an interim measure pending the availability of public sewers and the Site was the subject of previous approvals given to the same applicant in 2005 and 2009. The Small House under application was granted with the Building Licence by LandsD in November 2015 and the

Small House has been completed with the provision of septic tank and soakaway system in accordance with ProPECC PN 5/93 within the “V” zone up to the standard of WSD.

- 5.3 As advised by EPD, while the village sewerage scheme for Yuen Leng is still included under the village sewerage programme and EPD continues to collaborate with DSD to resolve the persistent disagreements among the concerned land owners, there is currently no fixed timetable for implementing the sewerage scheme for Yuen Leng. In this regard, it is considered not practicable to request the applicant to fulfil the approval condition on sewerage connection at this stage.
- 5.4 The proposed variation of the relevant approval condition related to sewage disposal within the WGG is to facilitate the discharge of such condition in practical terms after a review of the latest circumstances of the application. Both EPD and WSD have no objection to/no comment on the variation of approval condition (c) by the provision of septic tank and soakaway system.
- 5.5 Based on the assessments above, the Planning Department has no objection to vary approval condition (c) for Application No. A/NE-KLH/459.
- 5.6 Should the Committee decide to approve the proposal, the relevant approval condition (c) is suggested to be revised as follow:
- the provision of septic tank and soakaway system to the satisfaction of the Director of Water Supplies or of the Town Planning Board
- 5.7 There is no strong planning reason to recommend rejection of the request.

6. Decision Sought

The Committee is invited to consider the proposed variation of approval condition (c).

7. Attachments

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| Appendix I | Applicant’s letter dated 21.6.2018 |
| Appendix II | Approval letter for Application No. A/NE-KLH/459 dated 7.2.2014 |
| Plan 1 | Location plan |
| Plan 2 | Site plan |

**PLANNING DEPARTMENT
AUGUST 2018**