

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/654

- Applicant** : Mr. MAN Chun Kiu represented by Mr. YEUNG Siu Fung
- Site** : Lots 32 S.A ss.1 and 32 S.B in D.D. 7, Tai Hang, Tai Po, New Territories
- Site Area** : About 116.2m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zoning** : “Village Type Development” (“V”) (about 86m² or 74% of the Site)
“Agriculture” (“AGR”) (about 30.2m² or 26% of the Site)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant, as an indigenous villager of Tai Hang of Tai Po Heung confirmed by the Indigenous Inhabitant Representative of his village¹, seeks planning permission to build a NTEH (Small House) at the application site (the Site) falling within an area mainly zoned “V” (about 74%) with a portion zoned “AGR” (about 26%) on the OZP (**Plans A-1 and A-2a**). The footprint of the proposed Small House falls entirely within the “V” zone. According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, such use (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes) within the “AGR” zone requires planning permission from the Town Planning Board (the Board)². The Site is currently vacant and partly paved.

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant is yet to be ascertained.

² According to paragraphs (A)(a) and (A)(c)(iv) of the ‘Interim Criteria for Consideration of Application for NTEH/Small House in New Territories’ (**Appendix II**), for NTEH/Small House development on a site straddling the “V” zone and other land use zones, planning permission from the Board is not required if the proposed NTEH/Small House footprint falls wholly within the “V” zone. However, such exemption from planning permission is not applicable to the site encroaching on water gathering grounds (WGG). For the current application, although the footprint of the proposed Small House falls entirely within “V” zone (**Drawing A-1 and Plan A-2a**), planning permission is still required as the Site encroaches on WGG (**Plan A-2a**).

1.2 Details of the proposed Small House are as follows:

Total Floor Area	:	194.1m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	64.7m ²

1.3 The Site is accessible via a local track leading to Tai Wo Service Road West. The layout of the proposed Small House and its sewerage connection proposal are shown at **Drawings A-1** and **A-2** respectively.

1.4 The Site is the subject of three previous applications (No. A/NE-KLH/557, 596 and 604) (**Plans A-1** and **A-2a**) submitted by the same applicant for the same use which were rejected/dismissed by the Rural and New Town Planning Committee (the Committee) of the Board, the Board on review and by the Town Planning Appeal Board on appeal between 2019 and 2023. Details of the previous applications are set out in paragraph 6.1 below.

1.5 Compared with the latest previous application No. A/NE-KLH/604, while the site area under current application remains unchanged, the proposed Small House footprint is slightly reduced from about 65.03m² to 64.70m² and shifted southward, resulting in the footprint entirely within the “V” zone (about 83% previously). Following the latest previous application, sewerage connection (instead of septic tank) is proposed for sewage disposal under the current application.

1.6 In support of the application, the applicant has submitted an Application Form with attachments received on 5.3.2025 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, as summarised below:

- (a) the applicant has applied for the same use for several times but all applications were rejected. He had searched for suitable land elsewhere within Tai Hang Village to build a full size Small House but in vain;
- (b) similar s.16 applications to the south of the Site approved by the Board fall outside the village ‘environs’ (‘VE’) of Tai Hang Village. The applicant requests the Board to accord similar treatment to his case; and
- (c) consent has been obtained from adjoining lot owner for connecting the public sewer by traversing his lot (Lot 25 S.N in D.D.7) (**Plan A-2a**).

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

The applicant is one of the “current land owners” and has complied with the 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. 31B) by obtaining consents from another “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. The latest set of Interim Criteria, which was revised on 7.9.2007, is at **Appendix II**.

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Applications

6.1 The Site is the subject of three previous applications (No. A/NE-KLH/557, 596 and 604) submitted by the same applicant for the same use, which were rejected/dismissed by the Board on review on 8.11.2019, by the Committee on 23.7.2021 and by the Town Planning Appeal Board on appeal on 8.8.2023 respectively. The major grounds of rejection were that the proposed development was not in line with the planning intention of the “AGR” zone and did not comply with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell outside the “V” zone and the ‘VE’ of Tai Hang; and there was no general shortage of land in meeting the demand for Small House development in the “V” zones of Tai Hang at the time of consideration. For application No. A/NE-KLH/596, it was rejected also because the applicant failed to demonstrate that the proposed development located within the WGG would be able to be connected to the existing/planned sewerage system in the area.

6.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

7. Similar Applications

7.1 There are 13 similar applications involving nine sites for Small House developments within or straddling the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Among them, four applications were approved and nine were rejected by the Committee.

7.2 The four applications (No. A/NE-KLH/331, 386, 451 and 452) were approved by the Committee between 2005 and 2013, i.e. before the Board formally adopted a more cautious approach in considering the Small House applications since August 2015, mainly on the grounds that more than 50% of the Small House footprint fell within the “V” zone; there was a general shortage of land in meeting the Small House demand at the time of consideration; and the

application site was the subject of a previously approved case (for application No. A/NE-KLH/452).

- 7.3 The remaining nine applications (No. A/NE-KLH/309, 316, 323, 326, 428, 454, 498, 567, 590) were rejected by the Committee between 2003 and 2020 mainly on the considerations that the proposed development was not in line with the planning intention of the “AGR” zone; there was no general shortage of land to meet the Small House demand at the time of consideration; the application site was not able to be connected to the existing/planned sewerage system in the area; and the applicants failed to demonstrate that the proposed development would not cause adverse impact on the water quality in the area.
- 7.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently vacant and partly paved;
- (b) located at the northern fringe of Tai Hang Village but outside the ‘VE’ of it;
- (c) located within the WGG; and
- (d) accessible via a local track leading to Tai Wo Service Road West.

8.2 The surrounding areas are predominantly rural in character comprising village houses, temporary structures, storage use, plant nursery, vegetated areas and clusters of tree groups (**Plan A-2a** and **A-3**).

9. Planning Intention

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.

10. Comments from Relevant Government Departments

- 10.1 The application had been assessed against the assessment criteria at **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	74% 100%	26% -	- About 26% of the Site falls within the “AGR” zone (Plan A-2a). - The footprint of the proposed Small House falls entirely within the “V” zone (Plan A-2a).
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and the footprint of the proposed Small House fall entirely outside ‘VE’ (Plan A-1).
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House application?	✓ ✓		<u>Land Required</u> - Land required to meet Small House demand in Tai Hang Village: about 6.50ha (equivalent to 260 Small House sites). The number of outstanding Small House applications is 35 ³ while the 10-year Small House demand forecast is 225. <u>Land Available</u> - Land available to meet Small House demand within the “V” zones of concerned village: about 7.81ha (equivalent to about 312 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Site is not incompatible with surrounding

³ Among the 35 outstanding Small House grant applications, all of them fall within “V” zone and planning permission from the Board is not required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				environment comprising temporary structures, vacant land, vegetated areas, and clusters of tree groups.
6.	Within WGG?	✓		- Both Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) and Director of Environmental Protection (DEP) have no objection to the application provided that the applicant should connect the proposed Small House to the existing public sewer at his own cost and take adequate protective measures to ensure that no pollution or siltation occurs to the WGG.
7.	Sewerage impact?		✓	- DEP advises that in view that the proposed development will be connected to public sewer, he has no objection to the application.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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 application.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that Small House development should be confined within the “V” zone but since the application involves the development of only one Small House, it could be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				to the application.
12.	Landscape impact?		✓	- CTP/UD&L, PlanD has no adverse comment on the application from landscape planning perspective as significant adverse impact on existing landscape resources arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical 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 and recommended advisory clauses are provided at **Appendices V** and **VI** respectively.

- (a) DLO/TP, LandsD;
- (b) DAFC;
- (c) DEP;
- (d) CTP/UD&L, PlanD;
- (e) C for T;
- (f) CE/MN, DSD;
- (g) CE/C, WSD;
- (h) D of FS; and
- (i) H(GEO), CEDD.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), CEDD (PM(N), CEDD); and
- (c) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

11. Public Comment Received During Statutory Publication Period

On 14.3.2025, the application was published for public inspection. During the statutory

public inspection period, one comment from an individual (**Appendix VII**) was received, expressing views on the application that the reasons for rejecting the latest previous application No. A/NE-KLH/604 remain applicable to the current application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed Small House development at the Site falling within an area mainly zoned “V” (about 74%) with the remaining portion zoned “AGR” (about 26%) on the OZP. While the proposed development is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation, the “AGR” portion involves only a relatively small area of residual private lots (about 30.2m²) with no building footprint encroaching onto it.
- 12.2 The footprint of the proposed Small House falls entirely within the “V” zone. The Site is located within the WGG and outside the ‘VE’ of Tai Hang Village. According to the Interim Criteria (**Appendix II**), for Small House development on a site straddling the “V” zone and other land use zones, planning permission is not required if the proposed Small House footprint falls wholly within the “V” zone. Such exemption from planning permission is not applicable to the site encroaching on WGG (**Plan A-2a**), and planning permission is thus still required for the current application. To address the concern relating to WGG, the applicant proposes connecting the proposed Small House to the existing public sewerage system (**Plan A-2a**), which is considered acceptable by the relevant departments, i.e. both DEP and CE/C, WSD have no objection to the application. Taking into account the specific planning circumstances mentioned above and the planning assessments below, favourable consideration could be given to the current application.
- 12.3 The Site is currently vacant and partly paved. The Site is located at the north of the village proper of Tai Hang, and some pieces of vacant land with Small House grant applications being processed or approved by DLO/TP, LandsD are found in the immediate surroundings of the Site. The proposed Small House is not incompatible with the surrounding areas, which are predominantly rural in character comprising village houses, temporary structures, storage use, plant nursery, vegetated areas and clusters of tree groups.
- 12.4 DLO/TP, LandsD advises that the total number of outstanding Small House applications for Tai Hang Village is 35 while the 10-year Small House demand forecast is 225. Based on the latest estimate by PlanD, about 7.81ha of land (or equivalent to about 312 Small House sites) is available within the “V” zones concerned (**Plan A-2b**). In this regard, there is no general shortage of land in meeting the demand for Small House development in the “V” zones. For the current application, the applicant has confined the footprint of the proposed Small House to the “V” zone. CTP/UD&L, PlanD has no adverse comment on the application as significant adverse impact on the existing landscape resources arising from the proposed development is not anticipated. Also, C for T considers that the application only involving the development of only one Small House can be tolerated. Other concerned government departments

consulted including CE/MN, DSD and D of FS have no objection to or no adverse comment on the application.

- 12.5 The Site is the subject of three previous applications submitted by the same applicant for the same use, all of which were rejected between 2019 and 2023 mainly for reasons as set out in paragraph 6.1 above. Compared with the previous applications, the proposed Small House footprint under the current application has been reduced and adjusted to fall entirely within the “V” zone without straddling the adjacent “AGR” zone. The concern regarding encroachment onto WGG has been properly addressed through the proposed sewerage connection. The planning considerations of the previously rejected applications are no longer applicable to the current application.
- 12.6 There are 13 similar applications for Small House development falling within or straddling the same “AGR” zone, which were approved by the Committee between 2005 and 2013, i.e. before the Board formally adopted a more cautious approach in considering the Small House applications since August 2015. The remaining nine applications were rejected by the Committee between 2003 and 2020 on the grounds as set out in paragraph 7.3 above. The planning circumstances of the current application, particularly those mentioned in paragraphs 12.2 above, are different from those of the rejected similar applications.
- 12.7 Regarding the public comment on the application as detailed in paragraph 11 above, the government departments’ comments and planning assessments above 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 as mentioned in paragraph 11 above, 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 2.5.2029, 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 recommended advisory clauses are at **Appendix VI**.
- 13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, 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 with Attachments Received on 5.3.2025
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	Recommended Advisory Clauses
Appendix VII	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Sewerage Connection Proposal
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within “V” Zones of Tai Hang Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
MAY 2025**