

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/596

<u>Applicant</u>	Mr. MAN Chun Kiu represented by Mr. YEUNG Siu Fung
<u>Site</u>	Lot 32 S.A in D.D. 7, Tai Hang, Tai Po, New Territories
<u>Site Area</u>	About 156 m ²
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zonings</u>	“Agriculture” (“AGR”) (about 61%) “Village Type Development” (“V”) (about 39%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant¹ 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, whilst ‘House (NTEH only)’ use 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).
- 1.2 Details of the proposed Small House development are as follows:
- | | | |
|-------------------|---|----------------------|
| Total floor area | : | 195.09m ² |
| Number of storeys | : | 3 |
| Building height | : | 8.23m |
| Roofed over area | : | 65.03m ² |
- 1.3 The uncovered area of the Site is proposed for garden use. The Site is accessible to vehicles via a local track.
- 1.4 Layout of the proposed Small House including the location of the septic tank is shown on **Drawing A-1**.

¹ According to District Lands Officer/Tai Po of Lands Department (DLO/TP, LandsD), the applicant claims himself as an indigenous villager of Tai Hang Village. However, his eligibility of Small House grant is yet to be ascertained.

- 1.5 The Site is subject of a previous application (No. A/NE-KLH/557) for Small House development submitted by the same applicant, which was rejected on review by the Board on 8.11.2019. Compared with the previous application, there is no change in major development parameters under current application except that the proposed Small House footprint is shifted southward with about 70% falling within “V” zone (previously 39%) and septic tank instead of sewerage connection is proposed for sewage disposal.
- 1.6 In support of the application, the applicant has submitted an application form with attachment on 31.5.2021 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the Site is partly within “V” zone;
- (b) the applicant has no other land for Small House development; and
- (c) there are similar Small Houses built in the vicinity of the Site.

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 (WGG), should be able to be connected to the existing/planned sewerage system in the area was incorporated. The latest Interim Criteria with criterion (i) remains unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/NE-KLH/557) for Small House development submitted by the same applicant, which was rejected by the Board on review on 8.11.2019 mainly for the reasons of being not in line with the planning intention of “AGR” zone; and not complying with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration.

- 5.2 Compared with the previous application, there is no change in major development parameters of the proposed Small House under current application except that the proposed Small House footprint is shifted southward with about 70% falling within “V” zone (previously 39%) and septic tank instead of sewerage connection is proposed for sewage disposal.
- 5.3 Details of the previous application are summarized at **Appendix III** and the location is shown on **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There are 13 similar applications for Small House development within the same “V” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**). Among them, four applications were approved and nine were rejected.
- 6.2 Among the rejected cases, seven covering six sites (No. A/NE-KLH/316, 323 428, 454, 498, 567, 590) were rejected by the Committee between 2003 and 2020, mainly on the ground of being not complying with the Interim Criteria in that there was no general shortage of land to meet the Small House demand at the time of consideration. Five of them (i.e. except Applications No. A/NE-KLH/428 and 498) were also rejected for a reason that the application site was not able to be connected to the existing/planned sewerage system in the area or the applicant failed to demonstrate the proposed development would not cause adverse impact on the water quality in the area.
- 6.3 The remaining two rejected cases (No. A/NE-KLH/309 and 326) covered the same site of two previously approved cases (No. A/NE-KLH/331 and 452), and were rejected by the Committee in 2003 and 2004 respectively mainly on the grounds of being not complying with the Interim Criteria in that there was no general shortage of land to meet future Small House demand at the time of consideration. Application No. A/NE-KLH/331 was approved in 2005 mainly for being complied with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within “V” zone and there was a general shortage of land in meeting the Small House demand at the time of consideration; and the proposed development was able to be connected to the planned sewerage system in the area. Application No. A/NE-KLH/452 was approved in 2013 on sympathetic consideration as the application site was the subject of previous approval despite there was sufficient land available within the “V” zone in meeting the future Small House demand at the time of consideration.
- 6.4 For the remaining two cases, Application No. A/NE-KLH/386 was approved in 2009 for reasons similar to those for approving Application No. A/NE-KLH/331 as mentioned in paragraph 6.3 above. For Application No. A/NE-KLH/451, although there was sufficient land available within the “V” zone in meeting the future Small House demand at the time of consideration, it was

approved in 2013 on sympathetic consideration that the proposed Small House footprint fell entirely within the “V” zone and the proposed Small House could be connected to the planned sewerage system in the area.

- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2a and photos on Plans A-3 and A-4)

- 7.1 The Site is:

- (a) vacant, partly covered with weeds and partly paved with asphalt sand;
- (b) located at the northern fringe of Tai Hang Village but outside the ‘VE’ of it; and
- (c) accessible by vehicles via a local track.

- 7.2 The surrounding areas are predominantly rural in character comprising scattered tree groups and village houses. The existing village cluster is found about 30m to the south of the Site (**Plan A-2a**).

8. **Planning Intentions**

- 8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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 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	70% 39%	30% 61%	- The remaining portion of the Site and Small House footprint falls within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site		100% 100%	- The Site and the footprint of the proposed Small House fall outside any ‘VE’ (Plan A-1). - As more than 50% of the proposed Small House footprint falls within “V” zone, District Lands Officer/Tai Po, LandsD (DLO/TP) has no objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	✓		<u>Land Required</u> - Land required to meet Small House demand in Tai Hang: about 6.23 ha (equivalent to 249 Small House sites). The outstanding Small House applications are 24 while the 10-year Small House demand forecast is 225.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of Tai Hang: about 7.91 ha (equivalent to about 316 Small House 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 application as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character comprising scattered tree groups and village houses.
6.	Within WGG?	✓		- The applicant proposes to use septic tank and soakaway system for foul water disposal. Director of

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Environmental Protection (DEP) and Chief Engineer/Construction of Water Supplies Department (CE/C of WSD) object to the application.
7.	Sewerage impact?	✓		- DEP advises that there is existing public sewer at about 20m to the south of the Site and with sufficient capacity to accommodate discharge from the proposed development. She cannot support the application unless the proposed house will be connected to the public sewer by the applicant.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
10.	Traffic impact?	✓		- The Commissioner for Transport (C for T) in general has reservation on the application but considers that the application only involving development of a Small House can be tolerated on traffic grounds.
11.	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 the submission and implementation of drainage proposal is required.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				from the landscape planning perspective as adverse impact on existing landscape resources arising from the proposed development is not anticipated.
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. Other detailed comments are at **Appendix V**.

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

9.3 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) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H/GEO, CEDD);
- (c) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

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

On 8.6.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received from the Chairman of Tai Hang Rural Committee (THRC) and an individual. The Chairman of THRC supports the application on the ground that the land available for Small House development in the concerned village is not sufficient to meet the villagers' Small House need. The individual objects to the application for reasons that the proposed development is not in line with the planning intention of "AGR" zone; the use of septic

tank will affect the water quality in WGG; and Small House development should be concentrated within the existing “V” zone.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development in an area mainly zoned “AGR” (about 61%) and partly “V” (about 39%) on the OZP. The proposed development is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as water source and road access are available; and the Site possesses potential for agricultural rehabilitation. There is no strong justification in the submission for a departure from the planning intention.
- 11.2 The Site and the footprint of the proposed Small House fall entirely outside the ‘VE’ of Tai Hang (**Plan A-1**). According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tai Hang Village is 24 while the 10-year Small House demand forecast is 225. Based on the latest estimate by Planning Department, about 7.91 ha of land (or equivalent to about 316 Small House sites) is available within the “V” zone of Tai Hang (**Plan A-2b**). As more than 50% of the footprint of the proposed Small House falls within “V” zone, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site, located at the northern fringe of Tai Hang Village (**Plan A-2a**), is vacant, partly covered with weeds and partly paved with asphalt sand (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising scattered tree groups and village houses (**Plans A-2a** and **A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG. DEP advises that there is existing public sewer in the vicinity of the Site, which is available for connection and has sufficient capacity to accommodate sewage discharge from the proposed development. However, the applicant proposes to use septic tank and soakaway system for foul water disposal. As such, DEP does not support the application. CE/C of WSD also objects to the application as the adoption of septic tank for foul water disposal will have potential to cause water pollution to the WGG, and there is no information in the submission to demonstrate that the proposed development would have no adverse impacts on the water quality of the surrounding areas. Other relevant Government departments including C for T, CE/CM of DSD, CHE/NTE of HyD, H(GEO) and PM/N of CEDD and D of FS have no objection to or no adverse comment

on the application.

- 11.5 Regarding the Interim Criteria (**Appendix II**), although more than 50% of the proposed Small House footprint falls within the “V” zone of Tai Hang, it does not comply with the Interim Criteria in that there is sufficient land within the “V” zone (about 7.91 ha or equivalent to about 316 Small House sites) (**Plan A-2b**) to fully meet the Small House demand of 249 houses (i.e. 24 outstanding Small House applications plus the 10-year demand forecast of 225 Small Houses). As there is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone, 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. The application also does not comply with the Interim Criteria in that the applicant fails to demonstrate that the proposed development located within the WGG would be able to be connected to the existing/planned sewerage system and would not cause adverse impact on the water quality in the area.
- 11.6 The Site is the subject of a previous application (No. A/NE-KLH/557) for Small House development submitted by the same applicant, which was rejected by the Board on review on 8.11.2019 mainly for the reasons of being not in line with the planning intention of “AGR” zone; and not complying with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration. Compared with the previous application, there is no change in major development parameters under current application except that the footprint of proposed Small House is shifted southward with about 70% falling within the “V” zone (previously 39%) and septic tank instead of sewerage connection is proposed for sewage disposal.
- 11.7 There are 13 similar applications within the same “AGR” zone (**Plan A-1**). Out of which, four applications (No. A/NE-KLH/331, 386, 451 and 452) were approved by the Committee between 2003 and 2013 before the adoption of a more cautious approach by the Board in August 2015 for reasons of being in compliance with the Interim Criteria in that more than 50% of the Small House footprint fell within the “V” zone and there was a general shortage of land in meeting the Small House demand at the time of consideration; the proposed development was able to be connected to the planned sewerage system in the area; or special circumstances that the proposed Small House footprint fell entirely within the “V” zone or the application site was the subject of a previously approved case.
- 11.8 For the remaining nine applications (No. A/NE-KLH/309, 316, 323, 326, 428, 454, 498, 567 and 590), they were rejected by the Committee between 2003 and 2020 mainly on the grounds of being not complying with the Interim Criteria in that there was no general shortage of land to meet the Small House demand at the time of consideration and/or the application sites were not able to be connected to the existing or planned sewerage system in the area. The planning circumstances of the current application are similar to these rejected

cases.

- 11.9 Regarding the public comment raising objection to the application as mentioned in paragraph 10, Government departments' comments and the planning assessments 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, 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 "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 submission for a departure from the planning intention; and
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "V" zone of Tai Hang; and the applicant fails to demonstrate that the proposed development located within the WGG would be able to be connected to the existing/planned sewerage system and would not cause adverse impact on the water quality in the area.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.7.2025, 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. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application form and attachments received on 31.5.2021
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
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
JULY 2021**