

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/597

<u>Applicant</u>	Mr. CHAN Wai Kwong represented by Mr. HUI Kwan Yee
<u>Site</u>	Lot 263 S.D ss.9 in D.D. 9, Kau Lung Hang Village, Tai Po, New Territories
<u>Site Area</u>	About 140 m ²
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zonings</u>	“Agriculture” (“AGR”) (about 72% of the Site) “Village Type Development” (“V”) (about 28% of the Site)
<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) which falls mainly within the “AGR” zone and partly within “V” zone on the OZP (**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). The Site is currently vacant.

1.2 Details of the proposed Small House development are as follows:

Roofed over area	:	65.03m ²
Total floor area	:	195.09m ²
Number of storeys	:	3
Building height	:	8.23m

1.3 No proposed use is specified for the uncovered area of the Site and a sewerage connection proposal is included in the submission (**Drawing A-1**).

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

- 1.4 The Site is the subject of two previous applications approved by the Committee. The last one (No. A/NE-KLH/527) was for Small House development submitted by the same applicant of current application, which was approved with conditions on 12.5.2017 and has lapsed on 13.5.2021. Compared with the last one, there is no change in major development parameters under current application.
- 1.5 In support of the application, the applicant has submitted an application form with attachments on 4.8.2021 (**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 house will be built on vacant agricultural land for residence;
- (b) there is no other available land;
- (c) there are similar Small Houses built in the vicinity of the Site; and
- (d) the Site is the subject of a previous approval, which has expired. A fresh application for planning permission is required so that Lands Department could continue to process the Small House application. There is no change compared with the previously approved scheme.

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 Applications

- 5.1 The Site is the subject/part of the subject of two previous applications (No. A/NE-KLH/358 and 527) for Small House developments, which have both

lapsed. Application No. A/NE-KLH/358 involved four proposed Small Houses including one located on the Site and submitted by the same applicant of current application. This proposed Small House was approved with conditions by the Committee on 23.3.2007, mainly on considerations that more than 50% of the proposed footprint fell within village ‘environs’ (‘VE’); there was a shortage of land in “V” zone to meet the demand for Small House at the time of consideration; and the Site was able to be connected to the planned sewerage system in the area. The other application (No. A/NE-KLH/527) was also submitted by the current applicant, which was approved on 12.5.2017 mainly on considerations of having previous approval and the proposed Small House was able to be connected to the planned public sewerage system, despite that land was still available within the “V” zone of Yuen Leng and Kau Lung Hang at the time of consideration. Compared with the latest previous application, there is no change in major development parameters of the proposed Small House under current application.

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

6. Similar Applications

- 6.1 There were 111 similar applications for Small House/NTEH 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, 67 applications were approved, 35 applications were rejected and one application was partially approved and partially rejected (i.e. the remaining part of Application No. A/NE-KLH/358 mentioned in paragraph 5.1 above).
- 6.2 Among the approved/partially approved applications, 49 applications (No. A/NE-KLH/304, 310, 311, 328, 339, 341, 343 – 347, 351, 352, 358 (partial), 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 in approving applications for Small House development in recent years, i.e. 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. These applications were 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 in the “V” zone at the time of consideration; the proposed development was able to be connected to the planned sewerage system; and/or the application site was the subject of a previously approved case.
- 6.3 After the Board’s adoption of a more cautious approach, there were 19 applications approved with conditions by the Committee between 2016 and

2020. Among them, 16 applications (No. A/NE-KLH/503, 504, 523, 529, 530, 531, 535, 541, 542, 553 – 555, 563, 564, 572 and 589) were approved mainly because there was previous approval. For the remaining three approved cases, Application No. A/NE-KLH/519 was approved mainly on consideration that there were similar applications approved in areas adjoining or in vicinity of the site; Application No. A/NE-KLH/533 involved a proposed Small House with more than 90% of footprint falling within the “V” zone; and Application No. A/NE-KLH/540 was located adjacent to and with similar planning circumstances as Application No. A/NE-KLH/533.

- 6.4 For the rejected/partially rejected applications, 22 applications (No. A/NE-KLH/300, 303, 312, 314, 315, 333, 334, 358 (partial), 361, 380, 404, 430, 439 – 441, 443, 444, 455, 478, 479, 483², 484) were considered before the Board’s adoption of a more cautious approach, and most of them were rejected mainly on the grounds of being not able to be connected to the existing/planned sewerage system in the area. A total of 14 applications were rejected after the Board’s adoption of a more cautious approach (No. A/NE-KLH/521, 526, 537, 538, 544, 546, 549, 556, 558, 559, 573, 577, 593 and 594) for a reason that land was still available within “V” zone for Small House development.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.
- 6.6 A similar application (No. A/NE-KLH/598) to the east of the Site will be considered by the Committee at the same meeting as the current application.

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) flat, vacant and covered with grasses;
 - (b) located at the southern fringe of Kau Lung Hang; and
 - (c) partly traversed by a local footpath to the east.
- 7.2 The surrounding areas are predominantly rural in character comprising active/fallow agricultural land, village houses and tree groups. The existing village cluster is found to the immediate north of the Site (**Plan A-2a**).

² Application No. A/NE-KLH/483 is the subject of Town Planning Appeal No. 8 of 2015, which was dismissed by the Town Planning Appeal Board on 1.9.2016 mainly on the same rejection reasons by the Board on the review application.

8. Planning Intentions

- 8.1 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.
- 8.2 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.

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? - Application site - Footprint of the Small House	28% 5%	72% 95%	- The remaining portions of the Site and the proposed Small House footprint fall within the “AGR” zone.
2.	Within ‘VE’? - Application site - Footprint of the Small House	100% 100%		- The Site and the footprint of the proposed Small House fall within ‘VE’ of Yuen Leng and Kau Lung Hang. 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 Yuen Leng and Kau Lung Hang: about 20.68 ha (equivalent to 827 Small House sites). The outstanding Small House applications are 122 while the 10-year Small House demand

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		forecast is 705. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of Tai Hang: about 6 ha (equivalent to about 240 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 proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character comprising village houses, fallow agricultural land and scattered tree groups.
6.	Within WGG?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House is 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.	Sewerage impact?	✓		- The Director of Environmental Protection (DEP) advises that there is existing public sewer in the area with sufficient capacity to accommodate discharge from the proposed development. He has no objection to the application on conditions that the proposed house will be connected to the public sewer as

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				proposed 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) 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) advises that an 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) advises that adverse landscape impact 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 Comment Received During Statutory Publication Period (Appendix VI)

On 13.8.2021, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual expressing concern that the proposed Small House may not be connected to the public drainage system.

11. Planning Considerations and Assessments

- 11.1 This application is for a proposed Small House development in an area zoned mainly “AGR” (about 72%) and partly “V” (about 28%) 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.
- 11.2 The Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Yuen Leng and Kau Lung Hang. As such, DLO/TP of LandsD has no objection to the application. According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang is 122 while the 10-year Small House demand forecast is 705. Based on the latest estimate by Planning Department, about 6 ha of land (or

equivalent to about 240 Small House sites) is available within the “V” zone of Yuen Leng and Kau Lung Hang.

- 11.3 The Site, located at the southern fringe of Kau Lung Hang Village (**Plan A-2a**), is flat and covered with grasses (**Plan A-4**). The surrounding areas are predominantly rural in character comprising active/fallow agricultural land, village houses and tree groups (**Plans A-2a and A-3**). CTP/UD&L of PlanD advises that significant landscape impact arising from the proposed development is not anticipated and the proposed development is not entirely incompatible with the surrounding environment.
- 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. The applicant has proposed to connect the proposed Small House to the existing public sewerage system, which is located about 10m to the north-west of the Site (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the application on basis of the applicant’s submission. 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**), more than 50% of the proposed Small House footprint falls within the ‘VE’ zone of Yuen Leng and Kau Lung Hang and the proposed development 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 ha or equivalent to about 240 Small House sites) is insufficient to fully meet the Small House demand, it is capable to meet the 122 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. Nevertheless, the Site is the subject of two previous applications for Small House development (No. A/NE-KLH/358 and 527) involving proposal submitted by the same applicant of current application, which were approved by the Committee on 23.3.2007 and 12.5.2017 respectively for consideration as mentioned in paragraph 5.1 above. Compared with the latest previous application, there is no change in major development parameters of the proposed Small House under the current application. Sympathetic consideration may be given to the current application.
- 11.6 As shown on **Plan A-2a**, there are 18 similar applications for Small House development in close proximity to the Site, with six cases approved and 12 cases rejected. Out of the approved applications, three of them (No. A/NE-

KLH/310, 311 and 426) were approved between 2003 and 2011 before the adoption of a more cautious approach by the Board in recent years. Since then, there were 3 applications (No. A/NE-KLH/563, 564 and 572) approved in 2019 based on sympathetic consideration as they were the subject of previously approved cases from the same applicants. The planning circumstances for these three applications are applicable to the current application.

- 11.7 Among the 12 rejected cases, five of them (applications No. A/NE-KLH/314, 315, 333, 334 and 361) were rejected between 2003 and 2007 mainly on the ground of being not able to be connected to the planned sewerage system. The remaining 7 applications (No. A/NE-KLH/521, 537, 538, 549, 558, 559 and 573) involved proposals which could be connected to the planned sewerage system but they were still rejected, between 2017 and 2020, as 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. There is another similar application No. A/NE-KLH/598 to be considered at this meeting, which is not the subject of any planning approval.
- 11.8 Regarding the public comment objecting to the application as detailed in paragraph 10 above, comments of Government departments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, Planning Department has no objection to this application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 24.9.2025, 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**.

12.3 Alternatively, should the Committee decide to reject the application, 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 submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("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. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application form and attachments received on 4.8.2021
Appendix II	Interim Criteria for Consideration of application : NTEH/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comment
Appendix VII	Recommended advisory clauses
	Layout plan submitted by the applicant

Drawing A-1

Plan A-1

Plan A-2a

Plan A-2b

Plan A-3

Plan A-4

Location plan

Site plan

Estimated amount of land available for Small House
development within “V” zone

Aerial photo

Site photo

**PLANNING DEPARTMENT
SEPTEMBER 2021**