

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-KLH/600**

<b><u>Applicant</u></b>	Mr. LEE Keng Yip represented by Mr. LEE Chi Keung
<b><u>Site</u></b>	Lot No. 344 S.A ss6 RP in D.D.9, Yuen Leng, Tai Po, New Territories
<b><u>Site Area</u></b>	About 137 m <sup>2</sup>
<b><u>Plan</u></b>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant<sup>1</sup> seeks planning permission to build an NTEH (Small House) on the application site (the Site) which falls within the “AGR” zone on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use within the “AGR” zone requiring 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 <sup>2</sup>  |
| Total Floor Area  | : | 195.09m <sup>2</sup> |
| Number of Storeys | : | 3                    |
| Building Height   | : | 8.23m                |
- 1.3 The uncovered area of the Site is proposed to be used as a garden. Layout of the proposed Small House and the sewerage connection proposal are shown on **Drawings A-1** and **A-2** respectively.
- 1.4 The Site is the subject of a previous application (No. A/NE-KLH/406) submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the

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

Committee) on 11.6.2010. The planning permission lapsed on 12.6.2014. Compared with the previous application, 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 16.8.2021 (**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 applicant is an indigenous villager of Yuen Leng Village;
- (b) the Site falls entirely within village ‘environs’ (‘VE’) of Yuen Leng and Kau Lung Hang Villages. The proposed Small House footprint is at the edge of “Village Type Development” (“V”) zone;
- (c) the proposed development is compatible with the rural environment and would not be visually intrusive to the surrounding area. No tree felling and filling of land is required, and the proposed development would not cause adverse environmental impacts;
- (d) the proposed development could be connected to the existing public manhole and would not cause pollution;
- (e) land supply with “V” zone of Yuen Leng is limited and there is a high demand of Small House sites. It is nearly impossible to purchase land within the “V” zone;
- (f) the proposed development would not cause any adverse traffic impact to the surroundings;
- (g) planning permission had been given to the applicant under previous application No. A/NE-KLH/406; and
- (h) there are similar applications for Small House developments within the ‘VE’ of Yuen Leng approved by the Board.

## **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/406) submitted by the same applicant for the same use, which was approved with conditions by the Committee on 11.6.2010 mainly on considerations of complying with the Interim Criteria in that the proposed Small House footprint fell entirely within the 'VE'; there was a general shortage of land in meeting the Small House demand in the "V" zones of the concerned villages at the time of consideration; and the proposed Small House was able to be connected to the planned sewerage system in the area. The planning permission lapsed on 12.6.2014. Compared with the previous application, there is no change in major development parameters under current application.
- 5.2 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 were 113 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, 68 applications were approved, 36 applications were rejected and one application was partially approved and partially rejected.
- 6.2 Among the approved/partially approved applications, 48 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, 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 21 applications approved with conditions by the Committee between 2016 and 2021. Among them, 18 applications (No. A/NE-KLH/503, 504, 523, 527, 529, 530, 531, 535, 541, 542, 553 – 555, 563, 564, 572, 589 and 597) 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, 483<sup>2</sup>, 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 15 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, 594 and 598) 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**.

**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) currently vacant and paved;
  - (b) located to the west of Kau Lung Hang San Wai Village;
  - (c) entirely within the 'VE' of Yuen Leng and Kau Lung Hang Villages; and
  - (d) accessible by a local track.

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<sup>2</sup> 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.

- 7.2 The surrounding areas are predominantly rural in character with village houses and active/fallow agricultural land. The village proper of Kau Lung Hang San Wai is to the immediate east of the Site (**Plan A-2a**).

## 8. 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.

## 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	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Application site - Footprint of the Small House	100% 100%	- -	- The Site and the proposed Small House footprint fall entirely 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” zones of the villages concerned: about 6 ha (equivalent to about 240 Small House sites) ( <b>Plan A-2b</b> ).
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 with village houses and active/fallow agricultural land.
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 vicinity of the Site with sufficient capacity to accommodate discharge from the proposed development. He has no objection to the application on conditions that the proposed

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				house will be connected to the public sewer as 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 submission and implementation of drainage proposal for the Site 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 Comments Received During Statutory Publication Period (Appendix VI)**

On 24.8.2021, the application was published for public inspection. During the statutory public inspection period, a total of 12 public comments were received from individuals, of which 11 raise objections to the application mainly on the grounds of excessive development, inadequate public facilities, blockage of emergency vehicular access and pedestrian access, traffic congestion, environmental pollution and impact on the structure of nearby nullah arising from the proposed development. The remaining one indicates no comment on the application.

## **11. Planning Considerations and Assessments**

11.1 This application is for a proposed Small House development in an area zoned “AGR” 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 western fringe of Kau Lung Hang Village (**Plan A-2a**), is flat and paved (**Plan A-4**). The surrounding areas are predominantly rural in character with village houses (**Plans A-2a** and **A-3**) and active/fallow agricultural land. 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 (**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 subject of a previous application (No. A/NE-KLH/406) for Small House development submitted by the same applicant, which was approved by the Committee in 2010 for considerations as mentioned in paragraph 5.1 above. Compared with the 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 34 similar applications for Small House development in close proximity to the Site, with 28 cases approved and six cases rejected. Out of the approved applications, three of them (Applications No. A/NE-KLH/ 259, 283 and 284) were approved before criterion (i) of the Interim Criteria came into effect on 3.8.2002; and 16 of them (No. A/NE-KLH/343, 344, 370, 372, 375, 397, 407, 442, 450, 469, 470, 471, 472, 473, 481 and 494) were approved between 2006 and 2015 before the adoption of a more cautious approach by the Board in recent years. Since then, there were nine applications approved between 2016 and 2019, six of which were approved mainly on sympathetic consideration as they were the subject of previously approved cases (No. A/NE-KLH/523, 535, 541, 553, 554 and 555). The remaining three cases were approved mainly on consideration that there were similar applications approved in area adjoining the site (No. A/NE-KLH/519); more than 90% of the proposed Small House footprint falls within the “V” zone (No. A/NE-KLH/533); and the site was located adjacent to and with similar planning circumstances as another planning approval (No. A/NE-KLH/540). The planning circumstances for those six approved applications with previous approval are applicable to the current application.
- 11.7 The six rejected cases (Applications No. A/NE-KLH/440, 441, 521, 537, 538 and 546) were rejected between 2013 and 2018 mainly on the grounds of being not able to be connected to the planned sewerage system in the area. Applications No. A/NE-KLH/440 and 441 were also rejected as the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas. For Applications No. A/NE-KLH/521, 537, 538 and 546 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.
- 11.8 Regarding the public comments 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 comments 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 15.10.2025, 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 16.8.2021
Appendix II	Interim Criteria for Consideration of application : 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
Drawing A-2	Sewerage connection proposal 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  
OCTOBER 2021**