

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

**APPLICATION NO. A/NE-KLH/612**

|                           |  |
|---------------------------|--|
| <b><u>Applicant</u></b>   | Mr. PANG Chi Keung represented by T.H. & Associates Limited  |
| <b><u>Site</u></b>        | Lot 433 S.B ss.5 in D.D. 9, Yuen Leng, Tai Po, New Territories   |
| <b><u>Site Area</u></b>   | About 105.3m <sup>2</sup>  |
| <b><u>Lease</u></b>       | Block Government Lease (demised for agricultural use)  |
| <b><u>Plan</u></b>        | Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11   |
| <b><u>Zonings</u></b>     | “Village Type Development”(“V”) (about 87% of the Site) and<br>“Agriculture” (“AGR”) (about 13% of the Site) |
| <b><u>Application</u></b> | Proposed House (New Territories Exempted House (NTEH) - Small House)   |

**1. The Proposal**

1.1 The applicant, an indigenous villager of Ting Kok Village<sup>1</sup> as confirmed by the Indigenous Inhabitant Representative (IIR), seeks planning permission to build an NTEH (Small House) on the application site (the Site) falling within an area largely zoned “V” with a minor portion zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within “V” zone while such use within “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 <sup>2</sup> |
| Number of storeys | : | 3                    |
| Building height   | : | 8.23m                |
| Roofed over area  | : | 65.03m <sup>2</sup>  |

1.3 The applicant has proposed connection of the Site with existing public sewerage system. The proposed layout of Small House and sewerage connection plan are shown in **Drawings A-1** and **A-2** respectively.

---

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

- 1.4 The Site is subject of two previous applications (No. A/NE-KLH/440 and 481) for Small House development which were submitted by the same applicant of current application. Details of these applications are set out in paragraph 5.
- 1.5 In support of the application, the applicant submitted the following documents:
- (a) Application form with attachments received on 8.9.2022 (Appendix I)
  - (b) Further information (FI) received on 13.9.2022 (Appendix Ia)

## **2. Justifications from the Applicant**

The justifications puts forth by the applicant in support of the application are detailed in FI at **Appendix Ia** which is summarized as follows:

- (a) the applicant is an indigenous villager of Ting Kok Village. The footprint of the proposed Small House falls 100% within the “V” zone with about 13% of the site area falling within the “AGR” zone. The Site is the subject of a previous application No. A/NE-KLH/481 which was approved;
- (b) the proposed development is considered compatible with the rural environment and the surrounding. It would not cause any adverse environmental and traffic impacts as it does not involve tree felling and there is no vehicular access leading to the Site;
- (c) the applicant has obtained consent from the relevant owners for laying foul water pipe which will be connected to the existing public sewerage system. The applicant will maintain the sewerage system in a good condition at his own cost; and
- (d) there are similar applications in the surrounding areas which were approved by the Board in the past years.

## **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. The latest Interim Criteria is at **Appendix II**.

## 5. **Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-KLH/440 and 481) for Small House development submitted by the same applicant of current application. Application No. A/NE-KLH/440 was rejected by the Board on review on 1.2.2013 mainly for the reasons that the proposed development did not comply the Interim Criteria in that the proposed development located within the Water Gathering Ground (WGG) would not be able to be connected to the planned sewerage system in the area and the applicant failed to demonstrated that the proposed development would have no adverse drainage and sewerage disposal impacts on the surroundings.
- 5.2 Application No. A/NE-KLH/481 was approved by the Rural and New Town Planning Committee (the Committee) on 22.8.2014 mainly on considerations that both Director of Environmental Protection (DEP) and Chief Engineer/Construction of Water Supplies Department (CE/C, WSD) had no objection to the interim measure of using septic tank and soakaway on the condition that the applicant would connect the proposed development to the public sewerage system when it is available. Compared with the last previous application (No. A/NE-KLH/481), there is no change to the footprint and major development parameters of the proposed Small House under the current application, except that the applicant proposed sewerage connection to the public sewerage system. The planning permission lapsed on 23.8.2022.
- 5.3 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plans A-1 and A-2a**.

## 6. **Similar Applications**

- 6.1 There are 26 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Among which, 25 cases were approved and 1 case was rejected.
- 6.2 Among the approved cases, six applications (No. A/NE-KLH/252, 256, 259, 260, 283 and 284) were approved before criterion (i)<sup>2</sup> of the Interim Criteria came into effect on 23.8.2002. 12 applications (No. A/NE-KLH/343, 344, 370, 372, 375, 406, 407, 442, 450, 469, 470 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 village 'environs' ('VE'); there was a general shortage of land in meeting the demand for Small House development 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

---

<sup>2</sup> Criterion (i) which requires that the application site, if located within water gathering grounds, should be able to be connected to the existing/planned sewerage system in the area

the subject of a previously approved case. Since then, there were seven applications approved between 2016 and 2021, four of which were approved mainly on sympathetic consideration as they were the subject of previously approved cases (No. A/NE-KLH/523, 535, 541 and 600). 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 four approved applications with previous approval are applicable to the current application.

- 6.3 For the rejected application No. A /NE-KLH/441, the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas.
- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan 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 with some shrubs and vegetation;
  - (b) within the ‘VE’ of Yuen Leng and Kau Lung Hang Villages;
  - (c) within the upper indirect WGG; and
  - (d) accessible via a footpath connecting to local track.
- 7.2 The surrounding areas are predominantly rural in character occupied by village houses mainly on the west and south, temporary structures, vacant land and active/fallow agricultural land.

8. **Planning Intention**

- 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.

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:

|    | <b><u>Criteria</u></b>   | <b><u>Yes</u></b> | <b><u>No</u></b> | <b><u>Remarks</u></b>  |
|----|--|-------------------|------------------|--|
| 1. | Within “V” zone?<br>- Footprint of the Small House<br>- Application site   | 87%               | 100%<br>13%      | - About 13% of the Site falls within “AGR” zone.   |
| 2. | Within ‘VE’?<br>- Footprint of the Small House<br>- Application site   | 100%<br>100%      |                  | - Both the Site and the proposed Small House footprint fall entirely within ‘VE’ of Yeun Leng and Kau Lung Hang Villages.<br><br>- District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) 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)? |                   | ✓                | <b><u>Land Required</u></b><br>- Land required to meet Small House demand in Yuen Leng, Kau Lung Hang: about 20.41 ha (equivalent to 816 Small House sites). The outstanding Small House applications are 108 <sup>3</sup> while the 10-year Small House demand forecast is 708. |
|    | Sufficient land in “V” zone to meet outstanding Small House applications?  | ✓                 |                  | <b><u>Land Available</u></b><br>- Land available to meet Small House demand within the “V” zone of the villages concerned: about 5.98 ha (equivalent to about 238 Small House sites) ( <b>Plan A-2b</b> ).   |
| 4. | Compatible with the planning intention of “AGR” zone?  |                   | ✓                | - Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as the Site possesses potential for agricultural rehabilitation that agricultural infrastructure such as road access and water source is available.                                |
| 5. | Compatible with surrounding area/development?  | ✓                 |                  | - The surrounding areas are predominantly rural in character comprising village houses, vegetated areas, clusters of tree groups and   |

<sup>3</sup> Among the 108 outstanding Small House application, 63 of them fall within the “V” zone and 45 straddle or outside the “V” zone.

|     | <b><u>Criteria</u></b>  | <b><u>Yes</u></b> | <b><u>No</u></b> | <b><u>Remarks</u></b>   |
|-----|---|-------------------|------------------|---|
|     |   |                   |                  | active/fallow agricultural land.  |
| 6.  | Within WGG?   | ✓                 |                  | - CE/C, WSD has no objection to the application provided that the proposed Small House would be connected to the public sewer at his own cost.  |
| 7.  | Sewerage impact?  | ✓                 |                  | - DEP has no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the proposed development to the existing public sewer at his own costs and reserve adequate land for the sewer connection work. |
| 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 the application only involving development of a Small House can be tolerated on traffic grounds.  |
| 11. | Drainage impact?  | ✓                 |                  | - Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that there is existing DSD maintained public drains available for connection in the area. Approval condition on the submission and implementation of drainage proposal is required.                |
| 12. | Landscape impact?   |                   | ✓                | - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application  |

|     | <u><b>Criteria</b></u>           | <u><b>Yes</b></u> | <u><b>No</b></u> | <u><b>Remarks</b></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;
- (b) Chief Engineer/Harbour Area Treatment Scheme, DSD;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) District Officer/Tai Po, Home Affairs Department.

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

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising objection to the application mainly on grounds that there would have adverse traffic, environmental, ecological, fire safety impacts arising from the proposed development and the proposed development would also affect living quality.

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

11.1 The application is for a proposed Small House at the Site which is largely zoned "V" with a minor portion 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 as the Site possesses potential for agricultural rehabilitation.

- 11.2 Regarding the Interim Criteria, the proposed Small House footprint falls entirely within the 'VE' of Yuen Leng and Kau Lung Hang Villages and the proposed development located within WGG would be able to be connected to public sewerage system (**Plan A-2a**). According to the DLO/TP, LandsD's records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang Villages is 108 while the 10-year Small House demand forecast for the same villages is 708. Based on the latest estimate by PlanD, about 5.98 ha of land (or equivalent to about 238 Small House sites) is available within the "V" zones of the concerned villages. While land available within the "V" zones is insufficient to fully meet the total future Small House demand of 816 Small Houses in these villages, it is capable to meet the outstanding 108 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 2015. 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/481 for Small House development submitted by the same applicant, which was approved by the Committee in 2014. DLO/TP advises that the Small House grant application submitted by the applicant is still under processing. Compared with the previous application, there is no change in major development parameters of the proposed Small House under current application. The footprint of the proposed Small House falls entirely within the "V" and 'VE' of Yuen Leng and Kau Lung Hang villages. Sympathetic consideration may be given to the current application.
- 11.3 The Site is currently vacant and grown with shrubs and vegetation. The proposed Small House is not incompatible with the surrounding area which is predominantly rural in character with active/fallow agricultural land and village houses. CTP/UD&L of PlanD has no objection to the application as adverse impact on existing landscape resources arising from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG, and the applicant proposes to connect the proposed Small House to the existing public sewer. DEP, CE/MN of DSD and CE/C of WSD have no objection to the application. Other Government departments consulted including C for T, D of FS, CE/MN of DSD and PM/N of CEDD have no objection to/ no adverse comment on the application.



- 11.5 As shown on **Plan A-2a**, there are 26 similar applications for Small House development in the vicinity of the Site. Among which, 25 cases were approved and one case was rejected. Among the approved cases, six of them were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002; and 12 were approved between 2003 and 2015 before the adoption of a more cautious approach by the Board in recent years. Since then, there were seven applications approved between 2016 and 2021, four of which were approved mainly on sympathetic consideration as they were the subject of previously approved cases. The remaining three cases were approved mainly on consideration that there were similar applications approved in area adjoining the site; more than 90% of the proposed Small House footprint falls within the “V” zone; and the site was located adjacent to and with similar planning circumstances as another planning approval. The planning circumstances for those four approved applications with previous approval are applicable to the current application. For the rejected application, the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas.
- 11.6 Regarding the public comment objecting to the application as detailed in paragraph 10 above, 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 comment mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.9.2026, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

### Approval Condition

- (a) the submission and implementation of drainage proposal and maintenance of such drainage system to the satisfaction of the Director of Drainage Services 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 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 9.8.2022                                     |
| Appendix Ia          | Further information received on 13.9.2022   |
| 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          | Public comments   |
| Appendix VII         | Recommended advisory clauses  |
| Drawings A-1 and A-2 | Layout plan and 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 photos   |