

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/617

- Applicant** : Mr. LEE Jason Hau Yau represented by Mr. HUI Kwan Yee
- Site** : Lot 114 RP in D.D. 9, Kau Lung Hang, Tai Po, New Territories
- Site Area** : About 210m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zoning** : “Village Type Development” (“V”) (about 84% of the Site) and
“Green Belt” (“GB”) (about 16% of the Site)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Kau Lung Hang Village¹ 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” (about 176m² or 84%) with a portion zoned “GB” (about 34m² or 16%) on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within “V” zone while such use (other than rebuilding of NTEH or replacement of existing domestic building by NTEH) within “GB” 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	:	8.23 m
Roofed Over Area	:	65.03 m ²

1.3 The Site is accessible by vehicles via a local track. A garden (about 145m²) is proposed in the uncovered area. The proposed layout of Small House and sewerage connection proposal are shown in **Drawing A-1**.

¹ 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 In support of the application, the applicant has submitted an application form with attachments on 19.10.2022 (**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**, as summarised below:

- (a) the Site is agricultural land which is currently vacant;
- (b) the applicant has no alternative sites for the proposed use; and
- (c) there are similar village houses in the surrounding areas.

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. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are at **Appendix III**.

6. Previous Application

There is no previous application on the Site.

7. Similar Applications

- 7.1 There are 13 similar applications for Small House development in the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Eight of them were approved, and the remaining five applications were rejected.
- 7.2 Among the eight approved applications, five of them (No. A/NE-KLH/357, 401, 408, 412 and 413) were approved by the Rural and New Town Planning Committee (the Committee) between 2007 and 2010 mainly on consideration

that the proposed development met the Interim Criteria in that the proposed Small House fell entirely within the village ‘environs’ (‘VE’); there was a general shortage of land in meeting the Small House demand; and the proposed Small Houses would be able to be connected to the planned sewage system in the area. Subsequently, three applications (No. A/NE-KLH/547, 551 and 552), which were the subject of three previously approved applications (No. A/NE-KLH/408, 412 and 413) respectively, were approved in 2018 mainly on sympathetic consideration and that the proposed Small House would be able to be connected to the existing sewerage system.

- 7.3 For the five rejected applications, four of them (No. A/NE-KLH/335 to 338) were rejected by the Committee in 2005 mainly for reasons of being not in line with the planning intention of “GB” zone; not complying with the Interim Criteria in that the proposed house was not able to be connected to the planned sewerage system; and causing adverse drainage and/or geotechnical impacts. Application No. A/NE-KLH/534 was rejected by the Committee in 2017 mainly for reasons of being not in line with the planning intention of “GB” zone; and land was still available within the “V” zone for Small House development.
- 7.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

- 8.1 The Site is:
- (a) vacant and hard paved;
 - (b) located entirely within the ‘VE’ of Kau Lung Hang and Yuen Leng and upper indirect Water Gathering Grounds (WGG); and
 - (c) accessible via a local track.
- 8.2 The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and clusters of tree groups. About 20m to the north is the Kau Lung Hang Ecologically Important Stream (KLH EIS). To the east, south and west is the village proper of Kau Lung Hang.

9. Planning Intentions

- 9.1 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.

- 9.2 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the proposed Small House - The Site	76% 84%	24% 16%	The remaining portion of the Site and the proposed Small House footprint falls within the “GB” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	- DLO/TP, LandsD has no objection to the application. The Site and the Small House footprint fall entirely within the ‘VE’ of Kau Lung Hang and Yuen Leng (Plan A-1).
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 Kau Lung Hang and Yuen Leng Villages: about 20.56 ha (equivalent to 822 Small House sites). The outstanding Small House applications are 114 ² while the 10-year Small House demand forecast is 708. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of concerned villages: about 5.97 ha (equivalent to about 238 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “GB” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view. Since there is no existing Small House and no

² Among the 114 outstanding Small House applications, 71 fall within “V” zone and 43 straddle or outside the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				planning application for Small House within the “GB” zone to the south of KLH EIS, approval of the application may set a precedent encouraging similar applications in the "GB" zone.
5.	Compatible with surrounding area/development?	✓		The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and scattered tree clusters.
6.	Within WGGs?	✓		Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application provided that the applicant would connect the proposed Small House to the existing public sewer at his own cost and take adequate protective measures to ensure that no pollution or siltation occurs to the WGGs.
7.	Sewerage impact?	✓		Director of Environmental Protection (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) advises that Small House development should be confined within the “V” zone but considers that the application only involving development of one Small House can be tolerated on traffic

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				grounds.
11.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises there is existing DSD maintained public drains available for connection in the area. An approval condition on the submission and implementation of a 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 from the landscape planning perspective as no significant sensitive landscape resources are observed.
13.	Geotechnical impact?		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the application.
14.	Local objections conveyed by DO?		✓	District Officer/Tai Po (DO/TP) has no comments on the application.

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);

- (c) Project Manager (North), Civil Engineering and Development Department; and
- (d) District Officer/Tai Po, Home Affairs Department (DO(TP), HAD).

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

During the statutory public inspection period, six public comments were received from individuals and villagers. Five of them object to the application for reasons of adverse traffic, fire safety, ecological, drainage, visual and environmental impacts, and affecting living quality. The remaining one supports the application.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed Small House development at the Site largely zoned “V” (about 176 m² or 84%) with a portion zoned “GB” (about 34 m² or 16%) on the OZP. The proposed development is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets, and there is a general presumption against development. While DAFC has no strong view on the application from nature conservation point of view, the “V” zone portion of the Site, with an area of about 176 m², is sufficient to accommodate a standard Small House with a roofed area of 65.03m² as currently proposed. There is no strong reason to build the Small House on the “GB” portion. There is no strong justification in the applicant’s submission for a departure from the planning intention.
- 12.2 Regarding the Interim Criteria (**Appendix II**), the proposed Small House falls entirely within the ‘VE’ of Kau Lung Hang and Yuen Leng. According to the DLO/TP of LandsD’s records, the total number of outstanding Small House applications for Kau Lung Hang and Yuen Leng Villages is 114 while the 10-year Small House demand forecast is 708. Based on the latest estimate by PlanD, about 5.97 ha of land (equivalent to about 238 Small House sites) is available within the “V” zone of the concerned villages (**Plan A-2b**). While land available within the “V” zones is insufficient to fully meet the total future Small House demand of 822 Small Houses in these villages, it is capable of meeting the outstanding 114 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development since 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.
- 12.3 The Site is hard paved and is located to the northern fringe of Kau Lung Hang Lo Wai surrounded by village houses to its immediate west, east and south (**Plan A-4**). The proposed Small House is not incompatible with the surrounding

rural and village setting, and CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact on existing landscape resources within the site and the landscape character arising from the proposed use is not anticipated.

- 12.4 The Site falls within the upper indirect WGG. The applicant proposes 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 provided that the applicant shall connect the proposed Small House to the public sewer at his own cost and adequate space within the Site will be reserved for connection. CE/MN of DSD advises that an approval condition on the submission and implementation of a drainage proposal is required. Other government departments including D of FS, CHE/NTE of HyD, H(GEO) of CEDD and DO/TP of HAD have no objection to/ no adverse comment on the application.
- 12.5 There are 13 similar applications for Small House development within the same “GB” zones in the vicinity of the Site, of which eight were approved and five were rejected. For the five rejected applications, four of them (No. A/NE-KLH/335 to 338) were rejected in 2005 before the adoption of cautious approach for reasons set out in paragraph 7.3. Application No. A/NE-KLH/534 was rejected in 2017 for reasons of being not in line with the planning intention of “GB” zone; and land was still available within the “V” zone for Small House development. The planning circumstances for this rejected similar application are applicable to the current application.
- 12.6 Regarding the public comments objecting to the application as detailed in paragraph 11 above, comments of government departments and the planning assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the 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 “Green Belt” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from such planning intention; and
 - (b) land is still available within the “Village Type Development” (“V”) zone of Kau Lung Hang and Yuen Leng Villages 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.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.12.2026, 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

- the submission and implementation of a drainage proposal 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**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause to be attached to the permission, and the date when the validity of the permission should expire.

15. Attachments

Appendix I	Application form with attachments received on 19.10.2022
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Extract of the Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance
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 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 within “V” zone of Kau Lung Hang and Yuen Leng Villages for Small House development
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
DECEMBER 2022**