

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

**APPLICATION NO. A/NE-KLH/619**

**Applicant** : Mr. LEE Chiu Ping, Peter

**Site** : Government land in D.D.9, Tai Wo Village, Tai Po, New Territories

**Site Area** : 65.03m<sup>2</sup>

**Lease** : Unleased and unallocated government land

**Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11

**Zoning** : “Green Belt” (“GB”)

**Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Tai Wo 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 zoned “GB” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ 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 <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m <sup>2</sup>

1.3 The Site is accessible by vehicles via a local track. The applicant proposes to connect the proposed development to nearby public sewer. The proposed layout of Small House and sewerage connection proposal submitted by the applicant are shown in **Drawings A-1 and A-2**.

1.4 In support of the application, the applicant has submitted an application form with attachments on 13.12.2022 (**Appendix I**).

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<sup>1</sup> 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.

**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 summarized below:

- (a) the proposed Small House development is for self-occupation by the applicant;
- (b) there are similar village houses and existing car park in the surrounding areas. The proposed Small House development would not affect any future developments; and
- (c) the Site could be connected to existing sewerage system.

**3. Compliance with the “Owner’s Consent/Notification” Requirements**

As the Site involves Government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable to the application.

**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 have been 17 similar applications for Small House development within/straddling the same “GB” zone and in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Among them, 11 of them were approved, and the remaining six applications were rejected.
- 7.2 Among the 11 approved applications, nine applications (No. A/NE-KLH/246, 247, 254, 258, 261, 263, 264, 308 and 487) were approved with conditions by

the Rural and New Town Planning Committee (the Committee) before adoption of a cautious approach in considering application for Small House development in August 2015 mainly on considerations that the proposed Small Houses generally met the Interim Criteria in that the footprints of the proposed Small Houses had more than 50% falling within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at the time of consideration; and the applications were generally in line with TPB-PG No. 10.

- 7.3 The remaining two applications (No. A/NE-KLH/395 and 460), covering the same site and submitted by the same applicant of the approved application No. A/NE-KLH/258, were approved in 2010 and 2014 respectively mainly on consideration of being able to be connected to the planned sewerage system in the area and having previous planning permission granted.
- 7.4 Six applications (No. A/NE-KLH/394, 524, 528, 550, 575 and 591<sup>2</sup>) were rejected by the Committee/the Board on review as well as dismissed by the Appeal Board between 2010 and 2021 mainly for reasons of being not in line with the planning intention of "GB" zone; and not in compliance with the Interim Criteria in that the proposed development was not able to be connected to the planned sewerage system in the area. Four of them (No. A/NE-KLH/524, 528, 550 and 575) were also rejected for a reason that land was still available within the "V" zone for Small House development at the time of consideration.
- 7.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

## **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 covered with grass;
  - (b) located entirely within the 'VE' of Tai Wo 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, temporary structures, clusters of tree groups and woodland, farmland and vegetated areas.

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<sup>2</sup> Application No. A/NE-KLH/591 was a non-Small House application.

## 9. Planning Intention

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		100%  100%	- The Site and the proposed Small House footprint fall within the “GB” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100%  100%	-  -	- According to DLO/TP, LandsD, the Site and the Small House footprint fall entirely within the ‘VE’ of Tai Wo ( <b>Plan A-1</b> ).
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, Yuen Leng and Tai Wo Villages: about 25.7 ha (equivalent to 1,028 Small House sites). The outstanding Small House applications are 134 <sup>3</sup> while the 10-year Small House demand forecast is 894.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zones of Kau Lung Hang, Yuen Leng and Tai Wo Villages: about 8.32 ha (equivalent to about 332 Small House sites) ( <b>Plan A-2b</b> ).

<sup>3</sup> Among the 134 outstanding Small House applications, 94 fall within “V” zone and 40 straddling/outside the “V” zone.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> <li>- Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view as the Site is covered with common herbs only. Pruning of some young trees of common species to the northeast of the Site may be required.</li> <li>- There is a general presumption against development within the “GB” zone.</li> </ul>
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are predominantly rural in character comprising village houses, temporary structures, vegetated areas, tree groups and woodland.
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		✓	Director of Fire Services (D of FS) has no in-principle objection to the application.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	vehicular access (EVA)?			
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 grounds.
11.	Drainage impact?	✓		Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that there is no existing 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 the Site is covered with grass and some trees of common species and protected climbers <i>Dalbergia benthamli</i> are observed at the northeast outside the Site. Significant adverse impact on existing landscape resources and the landscape character arising from the proposed Small House development is not anticipated.
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;
- (b) H(GEO), CEDD;
- (c) Project Manager (North), Civil Engineering and Development Department; and
- (d) DO(TP), HAD.

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

During the statutory public inspection period, two public comments objecting to the application were received from individuals. One objects to the application for reasons of adverse traffic, fire safety, ecological, drainage, visual and environmental impacts, and affecting living quality. Another one expresses concern that the proposed development would result in encroachment onto “GB” zone and land is still available within the “V” zone of Tai Wo Village.

## **12. Planning Considerations and Assessments**

12.1 The application is for a proposed Small House development at the Site zoned “GB” 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. The Site is Government land and the applicant fails to demonstrate no alternative site available within the “V” zone for the proposed Small House. 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 Tai Wo. According to the DLO/TP of LandsD’s records, the total number of outstanding Small House applications for Kau Lung Hang, Yuen Leng and Tai Wo Villages is 134 while the 10-year Small House demand forecast is 894. Based on the latest estimate by PlanD, about 8.32 ha of land (equivalent to about 332 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 1,028 Small Houses, it is capable of meeting the outstanding 134 Small House applications. It should be noted that the Board has formally adopted a cautious approach in considering applications for Small House development since August 2015. Among 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 vacant and covered with grass. It is located to the east of Tai Wo Village and a piece of woodland is located to the north and east of the Site (**Plan A-4**). The proposed Small House is not incompatible with the surrounding rural and village setting, and CTP/UD&L of PlanD considers that significant adverse landscape impact arising from the proposed use is not anticipated. DAFC has no strong view on the application but advises that pruning of some young trees of common species to the northeast of the Site may be required.
- 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 will 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 six similar applications (No. A/NE-KLH/394, 524, 528, 550, 575 and 591) rejected between 2010 and 2021. Except for Application No. A/NE-KLH/394 which was considered before adoption of a cautious approach in considering application for Small House development since August 2015 and A/NE-KLH/591 was for non-Small House development, the remaining applications (No. A/NE-KLH/524, 528, 550 and 575) were rejected 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 at the time of consideration. The planning circumstances for these four rejected similar applications are largely 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”) zones of Kau Lung Hang, Yuen Leng and Tai Wo Villages which are 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 3.2.2027, 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**

<b>Appendix I</b>	Application form with attachments received on 13.12.2022
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	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
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Detailed comments from relevant government departments
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan submitted by the applicant
<b>Drawing A-2</b>	Sewerage connection proposal submitted by the applicant
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available within “V” zone of Tai Wo Village for Small House development
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photo

**PLANNING DEPARTMENT  
JANUARY 2023**