

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

**APPLICATION NO. A/NE-KLH/622**

- Applicant** : Mr. KONG Yat Fung represented by Mr. HUI Kwan Yee
- Site** : Lot 346 S.A in D.D. 9, Yuen Leng Village, Tai Po, New Territories
- Site Area** : About 187m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zonings** : “Agriculture” (“AGR”) (about 124m<sup>2</sup> or 66.3%)  
“Village Type Development” (“V”) (about 63m<sup>2</sup> or 33.7%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Cheung Shue Tan 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 “AGR” (about 124m<sup>2</sup> or 66.3%) with a portion zoned “V” (about 63m<sup>2</sup> or 33.7%) 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 “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 Site is accessible via a local track connecting to Tai Wo Service Road East. The proposed layout of Small House and sewerage connection proposal are shown in **Drawing A-1**.

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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.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**) and Supplementary Information (SI) (**Appendix Ia**) on 9.5.2023 and 15.5.2023 respectively.

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

The justifications put forth by the applicant in support of the application are detailed in the Application Form and SI at **Appendices I** and **Ia**, as summarized below:

- (a) the Site is a piece of agricultural land which is currently vacant;
- (b) the applicant has no alternative sites for the proposed NTEH 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 the Interim Criteria, which was revised on 7.9.2007, is at **Appendix II**.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Applications**

- 6.1 There are 42 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. 39 of them were approved and three were rejected.
- 6.2 Among the 39 approved cases, four applications (No. A/NE-KLH/252, 256, 259 and 260) were approved before criterion (i) of the Interim Criteria<sup>2</sup> came into effect on 23.8.2002. 18 applications (No. A/NE-KLH/310, 311, 370, 372, 375, 397, 406, 407, 415, 416, 426, 442, 450, 471, 472, 473, 481 and 494) were approved between 2003 and 2015 before the formal adoption of a more cautious approach by the Board since August 2015 in approving applications for Small House development. Since then, there were 17 applications approved between

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<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.

2015 and 2022, 13 of which were approved mainly on sympathetic consideration as they were the subject of previously approved cases (No. A/NE-KLH/523, 529, 530, 535, 541, 553, 554, 555, 563, 564, 572, 600 and 612). For Application No. A/NE-KLH/519, it was approved for reason that there were similar applications approved in areas adjoining the site. For Applications No. A/NE-KLH/533 and 540, they were approved on sympathetic consideration as majority of the Small House footprint fell within the “V” zone and the sites were immediately surrounded by existing village houses and approved Small House applications respectively. The remaining one (No. A/NE-KLH/573) was allowed by the Town Planning Appeal Board (TPAB) for reasons that sympathetic consideration should be afforded to the application on the basis that the Small House should be considered as an infill site and the size and location of the Small House would not frustrate the planning intention of the “AGR” zone.

6.3 For the three rejected applications, two of them (No. A/NE-KLH/440 and 441) were rejected on review by the Board in 2013 mainly for reasons of being 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 impact. Application No. A/NE-KLH/537 was rejected on review by the Board in 2018 mainly for reasons that the application was considered not in line with the planning intention of “AGR” zone; and land was still available within the “V” zone for Small House development.

6.4 Details of the similar applications are summarized at **Appendix III** 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) vacant with some overgrown grass;
- (b) located entirely within the village ‘environs’ (‘VE’) of Kau Lung Hang and Yuen Leng and upper indirect Water Gathering Grounds (WGG); and
- (c) accessible via a local track connecting to Tai Wo Service Road East.

7.2 The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and tree clusters. The Site is in close proximity to the existing village houses and the sites of approved Small House applications.

## 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 at **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? - Footprint of the proposed Small House - The Site	44% 33.7%	56% 66.3%	- About 66.3% of the Site and about 56% of the proposed Small House footprint fall within “AGR” 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 ( <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 and Yuen Leng Villages <sup>3</sup> : about 21.9ha <sup>4</sup> (equivalent to 876 Small House sites). The outstanding Small House applications are 98 <sup>5</sup> while the 10-year Small House demand forecast is 778.
	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 concerned villages: about 6.01ha <sup>6</sup> (equivalent to about 240 Small House sites) ( <b>Plan A-2b</b> ).

<sup>3</sup> As advised by DLO/TP, LandsD, the Site falls within the coverage of Yuen Leng Village under Small House grant application.

<sup>4</sup> The land required to meet Small House demand in Kau Lung Hang Village is 12.63ha (equivalent to 505 Small House sites) while that of Yuen Leng Village is 9.28ha (equivalent to 371 Small House sites). The number of outstanding Small House applications for Kau Lung Hang Village is 41 while that of Yuen Leng Village is 57. The 10-year Small House demand forecast of Kau Lung Hang Village is 464 and that of Yuen Leng Village is 314.

<sup>5</sup> Among the 98 outstanding Small House applications, 74 fall within “V” zone and 24 straddle or fall outside the “V” zone.

<sup>6</sup> Part of the ‘VE’ of Kau Lung Hang and Yuen Leng Villages overlaps with that of Tai Wo Village. On the overlap area, land available for Small House developments is 0.26ha (equivalent to 10 Small House sites), which serves the concerned villages for Small House developments.

	<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 “AGR” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from nature conservation point of view as the Site possesses potential for agricultural rehabilitation that agricultural infrastructure such watercourse and road is available.
5.	Compatible with surrounding area/ development?	✓		The Site is located in an area of settled valleys landscape character comprising Small Houses, vegetated areas and clusters of tree groups.
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

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, 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 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.

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments are at **Appendix IV**.

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

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); and
- (b) Project Manager (North), Civil Engineering and Development Department.

## **10. Public Comment Received During Statutory Publication Period**

On 16.5.2023, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix V**) was received from an individual objecting to the application for reasons that the Site is close to WGGs, is not a subject of a previous approval and there is still land available in the village for Small House development.

## **11. Planning Considerations and Assessment**

11.1 The application is for a proposed Small House development at the Site largely zoned “AGR” (about 124m<sup>2</sup> or 66.3%) with a portion zoned “V” (about 63m<sup>2</sup> or 33.7%) on the OZP. 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, 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 (**Appendix II**), the proposed Small House falls entirely within the ‘VE’ of Kau Lung Hang and Yuen Leng Villages. DLO/TP of LandsD advises that the Site falls within the coverage of Yuen Leng Village under Small House grant application. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Kau Lung Hang and Yuen Leng Villages is 98 while the 10-year Small House demand forecast is 778. Based on the latest estimate by PlanD, about 6.01 ha of land (equivalent to about 240 Small House sites) is available within the “V” zones 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 876 Small Houses in the villages, it is capable of meeting the outstanding 98 Small House applications. It should be noted that the Board has formally adopted a more cautious approach in approving applications for Small House development since August 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 sandwiched between Kau Lung Hang and Yuen Leng Villages which is immediately surrounded by existing village houses and sites of approved Small House applications and there is a substantive part (about 44%) of the Small House footprint falling within the “V” zone. Therefore, special consideration could be given to the application.

- 11.3 The Site is vacant with some overgrown grass. It is located at the southern fringe of Kau Lung Hang Village (**Plan A-3**). 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.
- 11.4 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.
- 11.5 There are 42 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. 39 of them were approved and three applications were rejected. Since the formal adoption of the more cautious approach by the Board in August 2015, there were 17 applications approved between 2015 and 2022 mainly on sympathetic consideration as they were the subject of previously approved cases; there were similar applications approved in area adjoining the sites; majority of the Small House footprints fell within the “V” zone; the Small House should be considered as an infill site. The planning circumstances of three approved applications (No. A/NE-KLH/519, 533 and 540) in that they were in close proximity to the existing village house developments and sites of approved Small House applications are applicable to the current application.
- 11.6 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 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 23.6.2027, 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 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 VI**.

- 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 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. 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**

<b>Appendix I</b>	Application Form with attachments received on 9.5.2023
<b>Appendix Ia</b>	Supplementary Information received on 15.5.2023
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Detailed comments from relevant government departments
<b>Appendix V</b>	Public comment
<b>Appendix VI</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan and 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 Kau Lung Hang and Yuen Leng Villages for Small House development
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photo

**PLANNING DEPARTMENT  
JUNE 2023**