

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/635

Applicant : Mr. WONG Kai Fan Gavin represented by T. H. & Associates Limited

Site : Lot 111 S.B ss.2 in D.D. 7, Tai Wo, Tai Po, New Territories

Site Area : About 153.4m²

Lease : Block Government Lease (demised for agricultural use)

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

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who is an indigenous villager of Tai Wo of Tai Po Heung¹ as confirmed by the Indigenous Inhabitant Representative, seeks planning permission to build a NTEH (Small House) on the application site (the Site) falling within an area zoned “AGR” on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only, 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 ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

1.3 The uncovered area is proposed for garden use. The proposed layout of Small House and sewerage connection proposal are shown in **Drawings A-1 and A-2** respectively.

1.4 The Site is the subject of a previous application (No. A/NE-KLH/92) (**Plans A-1 and A-2a**) submitted by a different applicant for the same use which was

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

approved by the Rural and New Town Planning Committee (the Committee) on 20.9.1996. As compared to the previous application, the major development parameters under the current application are largely the same. Details of the previous application are set out in paragraph 5.1 below

- 1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) and a noise impact assessment report (**Appendix Ia**), which were received on 30.8.2023.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** as summarized below:

- (a) the applicant is an indigenous villager who wishes to build a Small House;
- (b) the Site falls entirely within the village ‘environs’ (‘VE’) of Tai Wo Village and is about 12m from the “Village Type Development” (“V”) zone of Tai Wo Village. Land available for Small House development within the “V” zone of Tai Wo Village is very limited and it is impossible for the applicant to purchase land within the “V” zone;
- (c) the proposed development is considered compatible with the rural environment. There are no ditches or streamcourses within 30m from the Site and the proposed development will not involve any tree felling; and
- (d) the Site is the subject of a previously approved application (No. A/NE-KLH/92), but the applicant of the said application passed away² during the Small House grant application process. The current application should be given sympathetic consideration. Also, there are similar applications outside the “V” zone of Tai Wo Village 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. The latest set of Interim Criteria, which was revised on 7.9.2007, is at **Appendix II**.

² The applicant claims that he is the heir of Mr. WONG Choi, the applicant of the previously approved application.

5. Previous Application

- 5.1 The Site is the subject of a previous planning application (No. A/NE-KLH/92) for the same use submitted by a different applicant, which was approved by the Committee on 20.9.1996 before the first promulgation of the Interim Criteria on 24.11.2000. The major considerations are that the proposed development was situated on abandoned agriculture land and close to the village proper; compatible with the surrounding land use; and would not induce adverse environmental, drainage and traffic impacts on the surrounding areas. Compared with the previous application, the major development parameters of the proposed Small House under the current application are the same except that the proposed development would be connected to the public sewerage system instead of septic tank. The planning permission lapsed in 2007.
- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

6. Similar Application

There is no similar application for Small House development within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
- (a) vacant, partially covered by overgrown grass and surrounded by hoardings to separate the Site from the nearby open storage of construction materials and containers (**Plans A-2a** and **A-4**);
 - (b) located within upper indirect water gathering grounds (WGGs) and entirely within the ‘VE’ of Tai Wo Village; and
 - (c) accessible via a footpath from local road but not accessible by vehicles.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, active and fallow farmland, plant nursery and tree clusters. To the east is the village proper of Tai Wo Village. The MTR East Rail Line and Fanling Highway are to the west of the Site.

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	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely within “AGR” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	- The Site and the proposed Small House footprint fall entirely within the ‘VE’ of Tai Wo Village.
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 23.58ha ³ (equivalent to 943 Small House sites). The number of outstanding Small House applications are 113 ⁴ while the 10-year Small House demand forecast is 830. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of concerned villages: about
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		

³ The land required to meet the Small House demand in Kau Lung Hang Village, Yuen Leng Village and Tai Wo Village are 11.4ha (equivalent to 456 Small House sites), 9.13ha (equivalent to 365 Small House sites) and 3.05ha (equivalent to 122 Small House sites) respectively. The number of outstanding Small House applications for Kau Lung Hang, Yuen Leng and Tai Wo Villages are 40, 51 and 22 respectively. The 10-year Small House demand forecast of Kau Lung Hang, Yuen Leng and Tai Wo Villages is 416, 314 and 100 respectively.

⁴ Among the 113 outstanding Small House grant applications, 95 fall within “V” zone. The remaining 18 straddle or fall outside the “V” zone, of which 12 are covered by valid planning permissions.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				8.3ha ⁵ ⁶ (equivalent to about 332 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation that agricultural infrastructure such as water source and road access is available.
5.	Compatible with surrounding areas/development?	✓		- The Site is located in an area of settled valleys landscape character comprising village houses, vegetated area, tree clusters, woodland and farmland.
6.	Within WGGs?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application provided that the applicant will connect the proposed Small House to the existing public sewer 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

⁵ Land available in the “V” zones of Kau Lung Hang, Yuen Leng and Tai Wo Villages are 4.25ha (equivalent to 170 Small House sites), 1.75ha (equivalent to 70 Small House sites) and 2.3ha (equivalent to 92 Small House sites) respectively.

⁶ Part of the ‘VE’ of Kau Lung Hang and Yuen Leng Villages overlap with that of Tai Wo Village. In the “V” zone of the overlap area, land available for Small House development is 0.26ha (equivalent to 10 Small House sites), which serves the concerned villages for Small House developments.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				development to the existing public sewer at his own costs and reserve adequate land for the sewer connection works.
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.	Noise impact?		✓	- DEP considers that the noise impact assessment (Appendix Ia) is generally acceptable.
11.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that Small House 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.
12.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
13.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L,

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>PlanD) has no objection to the application from landscape planning perspective.</p> <p>- The Site is vacant, partially covered by overgrown grass and surrounded by hoardings. Significant adverse impact on existing landscape resources within the Site and landscape character arising from the proposed use is not anticipated.</p>
14.	Geotechnical impact?		✓	<p>- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the application.</p>
15.	Local objections conveyed by DO?		✓	<p>- District Officer (Tai Po) (DO(TP)) has no comments on the application.</p>

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and recommended advisory clauses are provided at **Appendices IV** and **VI** respectively.

- (a) DLO/TP, LandsD;
- (b) DAFC;
- (c) DEP;
- (d) D of FS;
- (e) C for T;
- (f) CE/MN, DSD;
- (g) CE/C, WSD;
- (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 (PM(N), CEDD).

10. Public Comment Received During Statutory Publication Period

On 8.9.2023, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix V**) was received from an individual who objects to the application for reasons that there is sufficient land within the “V” zone and there is no justification to extend the village houses into the “AGR” zone.

11. Planning Considerations and Assessment

- 11.1 The application is for a proposed Small House development at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural perspective, 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 Tai Wo Village. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Kau Lung Hang, Yuen Leng and Tai Wo Villages is 113 while the 10-year Small House demand forecast is 830. Based on the latest estimate by PlanD, about 8.3ha of land (equivalent to about 332 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 943 Small Houses in the villages, it is capable of meeting the 113 outstanding Small House applications. It should be noted that the Board has formally adopted a more 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.
- 11.3 The Site is vacant, partially covered by overgrown grass and surrounded by hoardings to separate the Site from the nearby open storage of construction materials and containers (**Plans A-2a and A-4**). The proposed Small House is not incompatible with the surrounding areas comprising village houses, active and fallow farmland, plant nursery and tree clusters. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on existing landscape resources within the Site and landscape character arising from the proposed use is not anticipated. While the Site is located close to the MTR East Rail Line and Fanling Highway to the west, DEP has no objection to the application having considered that the noise impact assessment report submitted by the applicant is generally acceptable. As the Site falls within the upper indirect WGGs, DEP and CE/C of WSD have no objection to the application

from sewerage/water quality perspective provided that the applicant will connect the proposed Small House to the public sewer at his own cost. Other concerned government departments including C for T, CE/MN of DSD, 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.

- 11.4 The Site is the subject of a previously approved application (No. A/NE-KLH/92) as set out in paragraph 5.1 above. The applicant states that sympathetic consideration should be given to the current application for reasons that the Site is the subject of a previously approved application and the applicant of the current application is the heir of the previous applicant. It should be noted that this previous application was submitted by a different applicant and the planning permission, which was granted in 1996, had already lapsed in 2007. Considering the Interim Criteria (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits, and for the subject application, sympathetic consideration could not be given as there are no specific circumstances to justify the case in that the Site is neither an infill site among existing NTEHs/Small Houses, nor the subject of Small House grant process at an advance stage.
- 11.5 Regarding the public comment objecting to the application as detailed in paragraph 10 above, the comments of government departments and planning assessment 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 comment mentioned in paragraph 10 above, 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 "Agriculture" 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") 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.
- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 27.10.2027, 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 advisory clauses at **Appendix VI** are also suggested for Members' reference.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application Form with attachments received on 30.8.2023
Appendix Ia	Noise impact assessment report received on 30.8.2023
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application
Appendix IV	Detailed comments from relevant government departments
Appendix V	Public comment
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout plan
Drawing A-2	Proposed sewerage connection plan
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, Yuen Leng and Tai Wo Villages for Small House development
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
OCTOBER 2023**