

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/638

- Applicant** : Mr. LI Chie Leung represented by Mr. HUI Kwan Yee
- Site** : Lots 346 S.E and 428 S.A ss.8 in D.D. 9, Yuen Leng Village, Tai Po, New Territories
- Site Area** : About 187.46m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zonings** : “Village Type Development” (“V”) (about 109.23m² or 58.3%)
and “Agriculture” (“AGR”) (about 78.23m² or 41.7%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself to be an indigenous villager of Shuen Wan Sha Lan of Tai Po Heung¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) falling within areas zoned “V” and “AGR” 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 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 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 at **Drawing A-1**.

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.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachment on 23.11.2023 (**Appendix I**).

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 Site is a piece of agricultural land which is currently vacant;
- (b) the applicant has no alternative sites for the proposed NTEH; and
- (c) the Site is adjacent to the existing village houses and there are approved planning applications for Small House developments 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, 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 40 similar applications for NTEH development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. 37 of them were approved and three were rejected.
- 6.2 Among the 37 approved cases, four applications (No. A/NE-KLH/252, 256, 259 and 260) were approved by the Rural and New Town Planning Committee (the Committee) before criterion (i) of the Interim Criteria² came into effect on 23.8.2002. 16 applications (No. A/NE-KLH/310, 311, 372, 375, 397, 407, 415, 416, 417, 442, 450, 471, 472, 473, 481 and 494) were approved by the Committee between 2003 and 2015 before the formal adoption of a more cautious approach by the Board since August 2015 in considering applications

² Criterion (i) 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.

for Small House development. Since then, there were 17 applications approved between 2016 and 2023, 12 of which were approved mainly on sympathetic consideration, as they were the subject of previously approved cases (No. A/NE-KLH/523, 529, 530, 531, 535, 541, 553, 554, 555, 563, 564 and 612). For Application No. A/NE-KLH/533, it was approved on sympathetic consideration as majority of the Small House footprint fell within the “V” zone. Applications No. A/NE-KLH/540, 622 and 624, they were approved mainly on consideration that the sites were immediately surrounded by existing villages house and sites of approved Small House applications. The remaining Application 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 to A-4)

7.1 The Site is:

- (a) vacant with some self-seeded vegetaion;
- (b) located entirely within the village ‘environs’ (‘VE’) of Kau Lung Hang and Yuen Leng Villages and upper indirect water gathering grounds (WGGs); 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, tree clusters and woodland. 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	100% 58.3%	- 41.7%	- About 41.7% of the Site falls 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 Kau Lung Hang and Yuen Leng Villages.
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 Village ³ : about 20.56ha ⁴ (equivalent to 822 Small House sites). The number of outstanding Small House applications are 92 ⁵ while the 10-year Small House demand forecast is 730. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of concerned villages:
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		

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

⁴ The land required to meet the Small House demand in Kau Lung Hang Village is 11.43ha (equivalent to 457 Small House sites) while that of Yuen Leng Village is 9.13ha (equivalent to 365 Small House sites). The number of outstanding Small House applications for Kau Lung Hang and Yuen Leng Villages are 41 and 51 respectively. The 10-year Small House demand forecast of Kau Lung Hang Village is 416 and that of Yuen Leng Village is 314.

⁵ Among the 92 outstanding Small House grant applications, 74 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>
				about 5.96 ⁶ (equivalent to about 238 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 point of view as the Site possesses potential for agricultural rehabilitation that agricultural infrastructure such as water source and road access is available.
5.	Compatible with surrounding area/development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that the Site is located in an area of settled valleys landscape character comprising village houses, vegetated areas, tree clusters and woodland.
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

⁶ Part of the 'VE' of Kau Lung Hang and Yuen Leng Villages overlap with that of Tai Wo Village. In 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>
				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 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) has no objection to the application.
12.	Landscape impact?		✓	- Chief Town Planner/Urban

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use 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.

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 **V** 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 adverse 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 5.12.2023, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix VI**) was received from an individual who objects to the application for reason that the Site is outside the ‘VE’, which is not suitable for Small House development.

11. Planning Considerations and Assessment

11.1 The application is for a proposed Small House development at the Site zoned “V” (about 109.23m² or 58.3%) and “AGR” (about 78.23m² or 41.7%) 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 to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Whilst DAFC does not support the application, as the Site possesses potential for agricultural rehabilitation, it should be noted that about 58.3% of the Site and 100% of the footprint of the proposed Small House fall within “V” zone, which is mainly for Small House development.

11.2 Regarding the Interim Criteria (**Appendix II**), the Site and the proposed Small House fall 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’s records, the total number of outstanding Small House applications for Kau Lung Hang and Yuen Leng Villages is 92 while the 10-year Small House demand forecast is 730. Based on the latest estimate by PlanD, about 5.96ha of land (equivalent to about 238 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 822 Small Houses in the villages, it is capable of meeting the 92 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. 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 located at a strip of residual land sandwiched between Kau Lung Hang and Yuen Leng Villages, which is surrounded by existing village houses and sites of approved Small House applications, and the Small House footprint wholly falls within the “V” zone. It should be noted that Applications No. A/NE-KLH/622 and 624 to the further west and the immediate west of the Site (**Plan A-2a**) were recently approved by the Committee in 2023. Approval of the current application would not encourage proliferation of Small House development outside “V” zone. Therefore, sympathetic consideration may be given to the application.

- 11.3 The Site is vacant with self-seeded vegetation. 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 the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated.
- 11.4 The Site falls within the upper indirect WGGs. 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. Other government departments including 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.
- 11.5 There are 40 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. 37 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 2016 and 2023 mainly on sympathetic consideration as they were the subject of previously approved cases; there were similar applications approved in area adjoining the sites; and the Small House should be considered as an infill site. The planning circumstances of four approved applications (No. A/NE-KLH/533, 540, 622 and 624) were similar to those of the current application in that they were in close proximity to the existing village house developments and sites of approved Small House applications; and/or the majority of the Small House footprint fell within the “V” zone.
- 11.6 Regarding the public comment objecting to the application as detailed in paragraph 10 above, the comments of government departments and 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, 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 12.1.2028, 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 recommend advisory clauses at **Appendix V** are also suggested for Members’ reference.
- 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

“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”) 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 the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) 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 with attachments received on 23.11.2023
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant government departments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Drawing A-1	Layout 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 and Yuen Leng Villages for Small House development
Plan A-3	Aerial photo
Plan A-4	Site photo