

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

**APPLICATION NO. A/NE-KLH/542**

<b><u>Applicant</u></b>	Mr. CHAN Yeuk Man, represented by Rocky Fung Surveying Company
<b><u>Site</u></b>	Lot 325 S.A ss.1 in D.D. 9, Kau Lung Hang Village, Kau Lung Hang, Tai Po, New Territories
<b><u>Site Area</u></b>	About 219.2 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<b><u>Zonings</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH)-Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Kau Lung Hang Village<sup>1</sup> as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, seeks planning permission to build an NTEH (Small House) on the application site (the Site), which falls within an area zoned “Agriculture” (“AGR”) on the approved Kau Lung Hang OZP No. S/NE-KLH/11 (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed development are as follows:
- |                  |   |                      |
|------------------|---|----------------------|
| Total floor area | : | 195.09m <sup>2</sup> |
| No. of Storeys   | : | 3                    |
| Building Height  | : | 8.23m                |
| Roofed over Area | : | 65.03m <sup>2</sup>  |
- 1.3 Layout of the proposed Small House and the sewerage connection proposal are shown on **Drawing A-1** and **A-2** respectively.
- 1.4 In support of the application, the applicant has submitted application form with attachments (**Appendix I**).

<sup>1</sup> The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the 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 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant is the land owner and an indigenous villager;
- (b) the proposed development is compatible with other Small House developments in the surroundings; and
- (c) the proposed Small House is able to be connected to the existing public sewerage system (**Drawing A-2**). The proposed development located within water gathering ground (WGG) would not cause adverse impact on the water quality in the area.

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

The applicant is the sole “current land owner” of the Site. 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within WGG, should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

## **5. Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-KLH/347 and 400) for the same use. Application No. A/NE-KLH/347 submitted by the current applicant’s father for a Small House development was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.3.2006 taking into consideration that the application generally complied with the Interim Criteria in that the proposed Small House fell within the village ‘environs’ (‘VE’) and there was a general shortage of land in meeting the demand for Small House development in the subject “V” zone at the time of consideration; and that the proposed Small House was able to be connected to the planned sewerage system in the area. The planning permission lapsed on 4.3.2010.
- 5.2 Application No. A/NE-KLH/400 submitted by the current applicant was approved by the Committee on 9.4.2010 mainly on sympathetic consideration that the application site had a previous planning permission and there was no change in planning circumstances since the last approval. The planning permission had been extended once until 9.4.2018.

- 5.3 Compared with the previous applications, the current application is different in terms of reduction in site area and change in the disposition of the proposed Small House footprint. Details of the previous applications are summarized at **Appendix III** and their location is shown on **Plans A-1** and **A-2a**.

## **6. Similar Applications**

- 6.1 There are 52 similar applications 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. Among them, three applications (No. A/NE-KLH/259, 283 and 284) were approved with conditions by the Committee before criterion (i) of the Interim Criteria came into effect on 23.8.2002.
- 6.2 After that, 38 similar applications (No. A/NE-KLH/310, 311, 343, 344, 351, 352, 370, 372, 375, 397, 406, 407, 415 - 417, 426, 432, 433, 442, 450, 469 - 473, 481, 494, 503, 504, 519, 523, 527, 529 - 531, 533, 535 and 540) were approved with conditions by the Committee or the Board on review between 2003 and 2017 mainly on the considerations of being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the ‘VE’; there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system and not incompatible with the surrounding environment; and/or the application site was the subject of a previously approved application.
- 6.3 The other seven applications (No. A/NE-KLH/314, 315, 333, 334, 361, 440, 441) were rejected by the Committee/the Board on review between 2003 and 2013 mainly on the grounds of not being able to be connected to the planned sewerage system in the area as there was no fixed programme for implementation of such system at that juncture. Applications No. A/NE-KLH/440 and 441 were also rejected on the grounds that the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewerage impacts on the surrounding areas. Another three applications No. A/NE-KLH/521, 537 and 538 were rejected by the Committee on 3.2.2017 and 22.12.2017 respectively mainly for reasons of being not in line with the planning intention of “AGR” zone and land was available within “V” zone for Small House development at the time of consideration.
- 6.4 In addition, Application No. A/NE-KLH/358 for four Small Houses was partially approved with conditions by the Committee on 23.3.2007. Two proposed Small Houses were approved for being in compliance with the Interim Criteria in that more than 50% of the footprint of proposed Small Houses locating within the ‘VE’; there was a general shortage of land in meeting the demand for Small House development in the “V” zone; and being able to be connected to the planned sewerage system, while the other two were rejected mainly because they were not able to be connected to the existing or planned sewerage system in the area.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

**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) situated at the fringe of the Kau Lung Hang village to the northeast of a watercourse;
- (b) partly fenced off, vacant and overgrown with weeds and groundcovers; and
- (c) accessible by a local track.

7.2 The surrounding areas are predominantly rural in character with some scattered tree groups, active/fallow agricultural land and village houses. Public sewerage works under Contract No. DC/2012/04 – Sewerage in Kau Lung Hang San Wai, Kau Lung Hang Lo Wai and Tai Hang was completed in 2017.

**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 in **Appendix II**. The assessment is summarized in the following table:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone ? - Footprint of the Small House - Application site	- -	100% 100%	- The Site and proposed Small House footprint fall entirely within the “AGR” zone.
2.	Within ‘VE’ ? - Footprint of the Small House - Application site	100% 99.6%	- 0.4%	- The proposed Small House footprint and majority of the Site fall within ‘VE’. The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Yuen Leng and Kau Lung Hang : about 12.13 ha (equivalent to 485 Small House sites). The outstanding Small House applications are 128<sup>2</sup> while the 10-year Small House demand forecast for the same villages is 357.</li> <li>- Land available to meet Small House demand within the “V” zone of the villages concerned : about 6.75 ha (equivalent to 270 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> <li>- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.</li> </ul>
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> <li>- The surrounding areas are predominantly rural in character comprising village houses and fallow agricultural land.</li> </ul>
6.	Within Water Gathering Ground (WGG)?	✓		<ul style="list-style-type: none"> <li>- The Chief Engineer/Construction of Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed house is able to be connected to the recently completed public sewerage system (<b>Plan A-2a</b>).</li> <li>- Approval conditions on connection to public sewers and provision of protective measures to WGG are required.</li> </ul>
7.	Encroachment onto planned road networks and public works boundaries?		✓	

<sup>2</sup> Among the 128 outstanding Small House applications, there are 29 Small House applications straddling or outside the “V” zone that have already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T), in general, has reservation on the application, but considers that the application only involving development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impacts?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application and advises that as there is no existing public drain available for connection in this area, approval condition on drainage proposal is required.
11.	Sewerage impacts?	✓		- The Chief Engineer/Consultant Management, Drainage Services Department (CE/CM, DSD) advises that the public sewerage works at Kau Lung Hang has been completed.  - The applicant proposed to connect the Small House to a newly constructed public sewer manhole. Sewer connection is feasible and capacity is available. The Director of Environmental Protection (DEP) has no objection to the application.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning point of view as adverse impact on significant landscape resources is not anticipated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- Approval condition on submission and implementation of landscape proposal is recommended.
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (e) Director of Environmental Protection;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Chief Engineer/Mainland North, Drainage Services Department;
- (h) Chief Engineer/Consultants Management, Drainage Services Department; and
- (i) Director of Fire Services.

9.3 The following Government departments have no objection to/ no comment on the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

## 10. Public Comments Received During Statutory Publication Period

On 6.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received. MTR Corporation Limited raises concern that the proposed development would be subject to potential noise impact from the East Rail Line (EAL). An individual objects to the application ~~mainly for reason of non-compliance with the Interim Criteria in that the proposed Small House would not be able to be connected to the planned sewerage system in the area as there is no fixed programme for implementation of such system at this juncture~~ *on the grounds of being not in line with the planning intention of the "AGR" zone and land is still available within the concerned "V" zone for Small House development (Appendix VI).*

## **11. Planning Considerations and Assessments**

- 11.1 The Site falls entirely within an area zoned “AGR”. The proposed development is not in line with the planning intention of the “AGR” zone which is primarily intended to retain and safeguard good quality agricultural land 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 development point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang is 128 while the 10-year Small House demand forecast is 357. Based on the latest estimate by the Planning Department, about 6.75 ha (or equivalent to about 270 Small House sites) of land are available within the “V” zones of Yuen Leng and, Kau Lung Hang. As the proposed Small House footprint falls entirely within the ‘VE’ of the concerned villages, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the western fringe of Kau Lung Hang San Wai, is vacant and covered with weeds and groundcovers (**Plans A-1 and A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with scattered tree groups, car parks, village houses and vacant land (**Plans A-2a and A-4**). CTP/UD&L of PlanD has no objection to the application from the landscape planning point of view as adverse impact on significant landscape resources is not anticipated.
- 11.4 The Site is within the upper indirect WGG. According to CE/CM of DSD, the public sewerage works at Kau Lung Hang have been completed. The applicant has submitted sewerage connection proposal (**Drawing A-2**). Both DEP and CE/C of WSD have no objection to the application on the condition that the applicant shall connect the proposed house to the public sewerage system at his own cost. Other Government departments consulted including C for T, CE/MN of DSD, D of FS, CHE/NTE of HyD and H(GEO) of CEDD have no objection to/adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Yuen Leng and Kau Lung Hang (**Plan A-1**) and the proposed development would be able to be connected to public sewerage system (**Plan A-2a**). While land available (about 6.75 ha or equivalent to about 270 Small House sites) within the “V” zones is insufficient to fully meet the future Small House demand, it is capable to meet the outstanding 128 Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. 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 orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is the subject of two previously approved planning applications (No. A/NE-KLH/347 and 400) for



the same use and the latter application was submitted by the same applicant. Compared with the latest previous application (No. A/NE-KLH/400), the site area is reduced and the proposed Small House footprint slightly shifted to the southwest. There has been no major change in the planning circumstances in the area since the latest previous application was approved in 2010. Therefore, special consideration can be given to the current application.

- 11.6 There are 41 similar applications approved between 2001 and 2017 (**Plan A-1**). Among them, 39 application (No. A/NE-KLH/310, 311, 343, 344, 351, 352, 358 (partial), 370, 372, 375, 397, 406, 407, 415 - 417, 426, 432, 433, 442, 450, 469 - 473, 481, 494, 503, 504, 519, 523, 527, 529 – 531, 533, 535 and 540) were approved by the Committee after criterion (i) of the Interim Criteria came into effect on 23.8.2002, mainly on the considerations that they were generally in compliance with the Interim Criteria in that more than 50% of the Small House footprints fell within the 'VE'; there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration; the proposed Small Houses were able to be connected to the planned sewerage system in the area; they were not incompatible with the surrounding environments; and/or being the subject of a previously approved application. Their circumstances are similar to the current application. The other eight similar applications (No. A/NE-KLH/314, 315, 333, 334, 358 (partial) 361, 440 and 441) were rejected mainly on the grounds of not being able to be connected to the planned sewerage system in the area and/or the applicant failed to demonstrate that the proposed development would have no adverse drainage and sewage disposal impacts on the surrounding areas. Another three applications No. A/NE-KLH/521, 537 and 538 were rejected by the Committee mainly for reasons of being not in line with the planning intention and land was still available within "V" zone for Small House development at the time of consideration.
- 11.7 Regarding the public comments that the proposed development would be subject to potential noise impact from EAL and the proposed Small House ~~would not be able to be connected to the planned sewerage system in the area~~ *is not in line with the planning intention of the "AGR" zone and land is still available within the concerned "V" zone for Small House development*, the comments from relevant Government departments and planning assessments as mentioned in above paragraphs are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, 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 16.3.2022, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the provision of drainage facilities to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (d) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VII**.

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 "V" zone of Yuen Leng and Kau Lung Hang 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 conditions and advisory clauses 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 and attachments received on 30.1.2018
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous applications
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 submitted by the applicant
Drawing A-2	Proposed public sewerage connection plan
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT  
MARCH 2018**