

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

**APPLICATION NO. A/NE-KLH/549**

<b><u>Applicant</u></b>	Mr. LI Kam Wa represented by Mr. HUI Kwan Yee
<b><u>Site</u></b>	Lot 263 S.D ss.15 in D.D.9, Kau Lung Hang Village, Tai Po, New Territories
<b><u>Site Area</u></b>	About 158 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>	“Village Type Development” (“V”) (about 39%) and “Agriculture” (“AGR”) (about 61%)
<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 of Tai Po as confirmed by the Vice-chairman of Tai Po Rural Committee<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, such use within the “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>
No. of storeys	: 3
Building height	: 8.23m
Roofed over area	: 65.03m <sup>2</sup>

Layout of the proposed Small House and sewerage connection proposal are shown on **Drawings A-1** and **A-2**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with attachments received on 16.4.2018 (**Appendix I**)

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the eligibility of Small House grant has yet to be ascertained.

(b) Further Information (FI) dated 12.7.2018

(Appendix Ia)

- 1.4 On 15.6.2018, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months at the request of the applicant to allow time for him to prepare FI in support of the application. Subsequently, the applicant submitted FI dated 12.7.2018 with a sewerage connection proposal (**Appendix Ia**). The application is re-scheduled for consideration on 7.9.2018.

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

The justifications put forth by the applicant in support of the application as mentioned in Part 9 of the application form at **Appendix I** are summarized as follows:

- (a) the house will be built on vacant agricultural land;
- (b) there is no other available land; and
- (c) there are similar houses built in the vicinity of the Site.

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

The applicant is the sole “current land owner” of the lot. 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 water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

## 5. **Previous Application**

There is no previous application at the Site.

## 6. **Similar Applications**

- 6.1 There are 96 similar applications for Small House development within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**). Among them, eight applications (No. A/NE-KLH/245, 259, 273, 277, 279, 281, 283 and 284) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Since then, 62 applications were approved (including one partially approved application) and 26 applications were rejected.

- 6.2 There are 48 applications (No. A/NE-KLH/304, 310, 311, 328, 339, 341, 343 – 347, 351, 352, 368, 370, 372, 375, 378, 379, 397, 400, 403, 406, 407, 409, 410, 415 – 417, 426, 432, 433, 438, 442, 450, 459, 467, 469 – 473, 481, 482, 487, 488, 491 and 494) approved between 2003 and 2015 before the adoption of a more cautious approach by the Board. These applications were approved 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; the proposed development was able to be connected to the planned sewerage system; the application site was the subject of a previously approved case; and/or the proposed house was considered as an infill development.
- 6.3 For the remaining 12 applications (No. A/NE-KLH/503, 504, 519, 523, 529 – 531, 533, 535 and 540 – 542), they were approved with conditions by the Committee between 2016 and 2018. While land was still available within the “V” zone for Small House development, applications No. A/NE-KLH/503, 504, 523, 529, 530, 531, 535, 541 and 542 were approved mainly because there was previous approval whereas applications No. A/NE-KLH/519, 533, 540 were approved mainly because the proposed house was considered as an infill development.
- 6.4 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. The other two proposed Small Houses were rejected mainly because they were not able to be connected to the existing or planned sewerage system in the area. Subsequently, application No. A/NE-KLH/527 being the subject of the approved portion of application No. A/NE-KLH/358, was approved by the Committee on 12.5.2017 mainly on sympathetic consideration as there was previous approval from the same applicant.
- 6.5 There are 26 applications (No. A/NE-KLH/300, 303, 312, 314, 315, 333, 334, 361, 380, 430, 439 – 441, 443, 444, 455, 478, 479, 483, 484, 521, 526, 537, 538, 544 and 546) rejected by the Committee or the Board on review between 2002 and 2018 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. For applications No. A/NE-KLH/521, 526, 537, 538, 544 and 546 rejected by the Committee between 2017 and 2018, one of the rejection reasons was that land was still available within “V” zone for Small House development and it was considered more appropriate to concentrate the proposed Small House within “V” zone. In addition, application No. A/NE-KLH/483, being the subject of Town Planning Appeal No. 8 of 2015, was dismissed by the Town Planning Appeal Board on 1.9.2016 mainly on the same rejection reasons of the application by the Board on review.
- 6.6 Details of the similar applications are summarized at **Appendix III** 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) flat, partly covered with weeds and partly hard-paved;
- (b) located at the southern fringe of Kau Lung Hang Lo Wai;
- (c) entirely within the village ‘environs’ (‘VE’) of Yuen Leng and Kau Lung Hang; and
- (d) connected to Tai Wo Service Road West via driveway at the north.

7.2 The surrounding areas are predominantly rural in character comprising of scattered tree groups, fallow agricultural land and village houses. Village clusters are mainly found to the north of the Site (**Plan A-2a**).

**8. Planning Intentions**

8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

8.2 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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the Small House - Application site	49% 39%	51% 61%	- The remaining portions of the Site and Small House footprint fall within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within village ‘environs’ (‘VE’)? - Footprint of the Small House - Application site	100% 100%		- The Site and the footprint of the proposed Small House fall entirely within ‘VE’ of Yuen Leng and Kau Lung Hang. - DLO/TP, LandsD has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand: about 12.18 ha (equivalent to 487 Small House sites). The outstanding Small House applications are 130 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 357. - Land available to meet Small House demand within the “V” zone of the villages concerned: about 6.67 ha (equivalent to 266 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as water supply and road access are available, and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character mainly comprising of scattered tree groups, fallow agricultural land and village houses.
6.	Within Water Gathering Ground (WGG)?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House is able to be connected to the existing public sewerage system in the area. - Approval conditions on connection to public sewers and provision of

<sup>2</sup> Among the 130 outstanding Small House applications, 79 of them fall within the “V” zone and 51 straddle or outside the “V” zone. For those 51 applications straddling or being outside the “V” zone, 12 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and Emergency Vehicular Access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T), in general, has reservation on the application but considers the application only involving development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- Chief Engineer / Consultant Management, Drainage Services Department (CE/CM, DSD) advises that new sewerage network at Kau Lung Hang was completed and is available for connection. - Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the Small House to the newly constructed public sewer at about 20m to the west from the Site ( <b>Plan A-2a</b> ), sewer connection is feasible and capacity is available for the proposed Small House development.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?	✓		<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has some reservations on the application from the landscape planning perspective as vegetation within the Site has been cleared since 2016 prior to submission of the application, and approval of the application would set an undesirable precedent to encourage such unauthorised removal of vegetation.</p> <p>- Should the application be approved, approval condition on submission and implementation of landscape proposal is not recommended as the footprint of proposed Small House covers most of the Site.</p>
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

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

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

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

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

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

On 24.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received (**Appendix V**) objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; and land was still available within the “V” zone.

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

- 11.1 The Site falls within an area partly zoned “V” (about 39%) and partly zoned “AGR” (about 61%). The proposed Small House 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. DAFC does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as water supply and road access are available; and the Site possesses potential for agricultural rehabilitation.
- 11.2 The applicant is an indigenous villager of Kau Lung Hang. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Yuen Leng and Kau Lung Hang villages is 130 while the 10-year Small House demand forecast is 357. Based on the latest estimate by the Planning Department, about 6.67 ha of land (or equivalent to about 266 Small House sites) are available within the “V” zones of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai (**Plan A-2b**). 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 southern fringe of Kau Lung Hang Lo Wai (**Plan A-2a**), is flat, partly covered with weeds and partly hard-paved (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising scattered tree groups, abandoned farmland and village houses (**Plans A-2a** and **A-3**). Whilst there is no existing trees within the Site, CTP/UD&L of PlanD has some reservations on the application from landscape planning point of view as there has been clearance of vegetation within the Site and approval of the application would set an undesirable precedent to encourage such unauthorized removal of vegetation and the cumulative effect would lead to degradation of landscape character and cause adverse impact on landscape resources.
- 11.4 The Site falls within the upper indirect WGG. The applicant has proposed to connect the proposed Small House to the existing public sewerage system at Kau Lung Hang, which is located about 20m to the west of the Site (**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. Besides, C for T has general reservation on the application but considers the application only involving the development of a Small House can be tolerated. Other relevant Government departments including CE/MN and CE/CM of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or no 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 and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the “V” zone (about 6.67 ha or equivalent to about 266 Small House sites) is insufficient to fully meet the Small House demand, it is capable to meet the 130 outstanding 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.6 There are 96 similar applications for Small House development within the same “AGR” zone, of which 13 cases are in close proximity to the Site (**Plan A-2a**). Out of the 13 applications, four of them (applications No. A/NE-KLH/310, 311, 358 and 426) were approved/ partially approved between 2003 and 2011 before the adoption of a more cautious approach by the Board in recent years. The planning permissions of these applications subsequently lapsed between 2007 and 2015. Since then, there was only one application (No. A/NE-KLH/527) approved in 2017 based on sympathetic consideration as it was the subject of a previously approved case from the same applicant. Regarding the eight rejected cases, five of them (applications No. A/NE-KLH/314, 315, 333, 334 and 361) were rejected between 2003 and 2007 mainly on the ground 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. The remaining three applications (No. A/NE-KLH/521, 537 and 538) were rejected between 2017 and 2018 as land was still available within “V” zone for Small House development and it was considered more appropriate to concentrate the proposed Small House within “V” zone. The planning circumstances of the current application are similar to these three rejected applications.
- 11.7 Regarding the public comment raising objection to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone and land being still available within the “V” zone, the planning assessments and comments of concerned Government departments 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 comment mentioned in paragraph 10, 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 “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 justification in the current submission for a departure from the planning intention; and

- (b) land is still available within the “Village Type Development” (“V”) zone of Yuen Leng, Kau Lung Hang San Wai and Kau Lung Hang Lo Wai 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.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 7.9.2022, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) 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
- (c) 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 VI**.

**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 16.4.2018
Appendix Ia	FI dated 12.7.2018
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	Public comment

Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Sewerage connection proposal submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within the “V” Zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT  
SEPTEMBER 2018**