

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-KLH/558 and 559

<u>Applicants</u>	Mr. CHAN Alvin Ka Lok Mr. CHAN Kwai Sang All represented by Mr. LI Kin Ming, Vincent	(Application No. A/NE-KLH/558) (Application No. A/NE-KLH/559)
<u>Sites</u>	Lot 310 S.D and 311 S.A Lot 310 S.E and 311 S.B All in D.D. 9, Kau Lung Hang, Tai Po, N.T.	(Application No. A/NE-KLH/558) (Application No. A/NE-KLH/559)
<u>Site Areas</u>	About 157.2 m ² About 122.9 m ²	(Application No. A/NE-KLH/558) (Application No. A/NE-KLH/559)
<u>Lease</u>	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11	
<u>Zoning</u>	“Agriculture” (“AGR”)	
<u>Applications</u>	Proposed House (New Territories Exempted House (NTEH) - Small House) at each of the application sites	

1. The Proposal

1.1 The applicants, indigenous villagers of Kau Lung Hang¹ as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

Total floor area	:	195.09m ²
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

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

- 1.3 Layouts of the proposed Small Houses including the sewerage connection proposals are shown on **Drawings A-1 to A-4** respectively.
- 1.4 In support of the applications, the applicants have submitted the following documents:
 - (a) application forms with attachments received **(Appendices Ia and Ib)** on 19.11.2018
 - (b) Further Information received on 4.2.2019 and 11.2.2019 providing owner's consent and sewerage connection proposals (*accepted and exempted from publication and recounting requirements*) **(Appendix Ic)**
 - (c) Further Information received on 5.3.2019 **(Appendix Id)** providing revised sewerage connection proposals (*accepted and exempted from publication and recounting requirements*)
- 1.5 At the request of the applicants, the Rural and New Town Planning Committee (the Committee) agreed on 18.1.2019 to defer the consideration of the applications for two months to allow time for the applicants to prepare further information to support the applications. The applicants submitted further information on 4.2.2019. The applications are scheduled for consideration on 22.3.2019.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the respective application forms at **Appendices Ia and Ib**. They can be summarized as follows:

- (a) the proposed Small Houses will be built on vacant agricultural land;
- (b) there is no other land available for development of the proposed Small Houses; and
- (c) there are similar Small Houses built in the vicinity of the application sites.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owners". 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 set of 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 Sites.

6. **Similar Applications**

- 6.1 There are 100 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, 65 applications were approved (including one partially approved application) and 27 applications were rejected.
- 6.2 A total of 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) were 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 "Village Type Development" ("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 After the Board's adoption of a more cautious approach, there are 15 applications (No. A/NE-KLH/503, 504, 519, 523, 529 – 531, 533, 535, 540 – 542 and 553 – 555) approved with conditions by the Committee between 2016 and 2018. While land was still available within the "V" zone to meet the outstanding Small House applications being processed by LandsD, applications No. A/NE-KLH/503, 504, 523, 529, 530, 531, 535, 541, 542 and 553 – 555 were approved mainly because there was previous approval whereas applications No. A/NE-KLH/519, 533 and 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 27 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, 546 and 549) 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, 546 and 549 rejected 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**.
- 6.7 Another two new similar applications No. A/NE-KLH/563 and 564 will be considered by the Committee at the same meeting.

7. The Sites and Their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)

- 7.1 The Sites are:
- (a) located on flat land covered with weeds;
 - (b) entirely within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Lo Wai; and
 - (c) within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character occupied by village houses and active/fallow agricultural land. There are villages houses to the south and north of the Sites. A streamcourse flowing from east to west is

located about 32m (application No. A/NE-KLH/558) and 22m (application No. A/NE-KLH/559) to the south of the Sites.

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 applications have 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? - Application site - Footprint of the Small House	- -	100% 100%	- The Sites and the proposed Small House footprints are entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small Houses - Application sites	100% 100%	- -	- The Sites and the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Yuen Leng, Kau Lung Hang San Wai and Lo Wai. - District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus		✓	- Land required to meet Small House demand: about 12.16 ha (equivalent to 484 Small House sites). The outstanding Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	10-year Small House demand)?			applications are 127 ² while the 10-year Small House demand forecast for the same villages is 357.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the “V” zone of the villages concerned: about 6.41 ha (equivalent to 256 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from agricultural development point of view as there are active agricultural activities in the vicinity and agricultural infrastructure such as water source and footpath is available; and the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character occupied by village houses and active/fallow agricultural land.
6.	Within WGG?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications as the proposed Small Houses are able to be connected to the existing public sewerage system in the area. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works		✓	

² Among the 127 outstanding Small House applications, 77 of them fall within the “V” zone and 50 straddle or outside the “V” zone. For those 50 applications straddling or being outside the “V” zone, 15 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	boundaries?			
8.	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 applications.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T), in general, has reservation on the applications but considers that the applications only involve development of a Small House at each of the Sites can be tolerated unless they are rejected on other grounds.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint. - an approval condition on submission and implementation of drainage proposal for the Sites is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas.
11.	Sewerage impact?	✓		- Chief Engineer / Consultant Management, Drainage Services Department (CE/CM, DSD) advises that new public sewerage network at Kau Lung Hang was completed and is available for connection. - Director of Environmental Protection (DEP) has no objection to the applications as the applicants have proposed to connect the Small Houses to the public sewerage at Kau Lung Hang San Wai (Plan A-2a), and sewer connection is technically feasible by adopting suitable design.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective. As no existing tree is found within the Sites, adverse impact to significant landscape resources is not anticipated. - since there is no adequate space for meaningful landscaping within the Sites to benefit the public realm, should the applications be approved by the Board, an approval condition on submission and implementation of landscape proposal is not recommended.
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. Detailed comments from Government departments 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) Director of Agriculture, Fisheries and Conservation;
- (f) Chief Engineer/Mainland North, Drainage Services Department;
- (g) Chief Engineer/Consultants Management, Drainage Services Department;
- (h) Chief Engineer/Construction, Water Supplies Department;
- (i) Director of Electrical and Mechanical Services; and
- (j) Director of Fire Services.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;

- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) District Officer (Tai Po), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period (Appendix V)

On 27.11.2018 and 22.2.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection periods, three public comments for each of the applications were received from The Hong Kong Bird Watching Society and an individual objecting to the applications mainly for the reasons of being not in line with the planning intention of “AGR” zone, land being still available in “V” zone, encouraging ‘destroy first and built later’ attitude, and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Sites fall entirely within the “AGR” zone. The proposed Small House developments are 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 applications from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as water source and footpath are available; and the Sites possess 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 villages is 127 while the 10-year Small House demand forecast is 357. Based on the latest estimate by the Planning Department, about 6.41 ha of land (or equivalent to about 256 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 footprints fall entirely within the ‘VE’ of the concerned villages, DLO/TP of LandsD has no objection to the applications.
- 11.3 The Sites are located on flat land covered with weeds. The proposed developments are not incompatible with the surrounding area which is predominantly rural in character occupied by village houses and active/fallow agricultural land (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the applications from the landscape planning perspective as no existing tree is found within the Sites and adverse impact to significant landscape resources arising from the proposed developments is not anticipated.
- 11.4 The Sites fall within the upper indirect WGG. The applicants have proposed to connect the proposed Small Houses to the existing public sewerage system at Kau Lung Hang San Wai, which is located near the Sites (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost, and adequate space within the Sites will be reserved for connection.

C for T, in general, has reservation on the applications but considers that the applications only involve development of a Small House at each of the Sites can be tolerated unless they are rejected on other grounds. 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 applications.

- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the 'VE' of Yuen Leng, Kau Lung Hang San Wai and Lo Wai and the proposed developments within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the "V" zone (about 6.41 ha or equivalent to about 256 Small House sites) is insufficient to fully meet the future demand of 484 Small Houses, it is capable to meet the 127 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 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 developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.6 According to **Plan A-2a**, there are 15 similar applications for Small House development within the same "AGR" zone in close proximity to the Sites. Application No. A/NE-KLH/259 was approved before criterion (i) of the Interim Criteria came into effect on 3.8.2002; and four applications (No. A/NE-KLH/310, 311, 358 and 426) were approved between 2003 and 2011 before the adoption of a more cautious approach by the Board in 2015. After that, there is one application (No. A/NE-KLH/527) approved in 2017 mainly on sympathetic consideration as the application site was the subject of a previously approved case (No. A/NE-KLH/358). Thus, their circumstances are different from the current applications that the Sites are not the subject of previously approved cases. There were nine applications rejected between 2003 and 2018. Applications No. A/NE-KLH/314, 315, 333, 334 and 361 were rejected between 2003 and 2007 mainly on the grounds of not being able to be connected to the planned sewerage system in the area while applications No. A/NE-KLH/521, 537, 538 and 549 were rejected in 2017 and 2018 mainly for the reason of land being still available within the "V" zone to meet the outstanding Small House applications received by LandsD. The planning circumstances of the current application are similar to these four recently rejected applications.
- 11.7 Regarding the public comments objecting to the applications mainly for the reasons of being not in line with the planning intention of "AGR" zone, land is still available in "V" zone, encouraging 'destroy first and built later' attitude and setting of undesirable precedent, 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 comments mentioned in paragraph 10, the Planning Department does not support the applications 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 planning justification in the current 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.

12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 22.3.2023, 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 for each of the permissions 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 for each of the permissions are attached at **Appendix VI**.

13. Decision Sought

13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permission.

- 13.2 Should the Committee decide to approve the applications, 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 applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendices Ia and Ib	Application forms and attachments received on 19.11.2018
Appendix Ic	Further information submitted by the applicants received on 4.2.2019 and 11.2.2019
Appendix Id	Further information submitted by the applicants received on 5.3.2019
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 comments
Appendix VI	Recommended advisory clauses
Drawings A-1 to A-4	Site plans and sewerage connection proposals submitted by the applicants
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 2019**