

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-KLH/593&594

<u>Applicants</u>	Mr. LEE Chi Wing Mr. IP Ron Gordon All represented by Rocky Fung Surveying Company	(Application No.: A/NE-KLH/593) (Application No.: A/NE-KLH/594)
<u>Sites</u>	Lot 858 S.A ss.1 Lot 858 S.B ss.2 All in D.D. 9, Yuen Leng Village, Tai Po, N.T.	(Application No.: A/NE-KLH/593) (Application No.: A/NE-KLH/594)
<u>Site Area</u>	About 161.2 m ² About 117.3 m ²	(Application No.: A/NE-KLH/593) (Application No.: A/NE-KLH/594)
<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 Proposals

1.1 The applicants, who claim themselves as indigenous villagers of Yuen Leng Village¹, seek planning permission to build a 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 The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants are indigenous villagers of Yuen Leng as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village but their eligibilities for Small House grant have yet to be ascertained.

- 1.3 The uncovered areas of the Site are proposed for garden use. The Sites are accessible to vehicles via local tracks. No parking space is proposed.
- 1.4 The applicants have proposed connection of the Sites with existing public sewerage system. The proposed layouts of Small Houses and sewerage connection plans are shown on **Drawings A-1 to A-4**.
- 1.5 The Site of A/NE-KLH/593 is the subject of a previous application (No. A/NE-KLH/444) for Small House development by the same applicant, which was rejected by the Board on review on 22.2.2013. There is no previous application at the Site of Application No. A/NE-KLH/594.
- 1.6 In support of the applications, the applicants have submitted application forms and attachments at **Appendices Ia and Ib**.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications are detailed in Part 8 of the respective application forms at **Appendices Ia and Ib**. They can be summarized as follows:

- (a) the applicants are indigenous villagers of Yuen Leng Village;
- (b) the proposed developments are compatible with other Small Houses in the surroundings;
- (c) there is serious shortage of land in "Village Type Development" ("V") zone;
- (d) the previous application No. A/NE-KLH/444 was rejected for reason of not being able to connect to the sewerage system. In this current applications, the applicants have prepared sewer plans for connection to the public sewerage system. No adverse impact on the water quality would be caused in the area; and
- (e) consents from the owners of the adjoining lots have been obtained for connection of the proposed sewers to the public sewerage system passing through their lots.

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 (WGGs), 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

- 5.1 The Site of Application No. A/NE-KLH/593 is the subject of a previous application (No. A/NE-KLH/444) for Small House development submitted by the same applicant, which was rejected by the Board on 22.2.2013 on review mainly for the reason of not complying with the Interim Criteria in that the proposed Small House located within the WGG would not be able to be connected to the planned sewerage system in the area despite there was a general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration. Compared with the previous application, there is no change to the footprint and major development parameters of the proposed Small House under the current application.
- 5.2 There is no previous application at the Site of Application No. A/NE-KLH/594.
- 5.3 Details of the previous application are summarized at **Appendix III** and its location is shown on **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There are 124 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, eleven applications (No. A/NE-KLH/245, 259, 271, 272, 273, 275, 277, 279, 281, 283 and 284) were approved before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Since then, 71 applications were approved, 41 applications were rejected and one application was partially approved and partially rejected.
- 6.2 Among the approved applications, 52 (No. A/NE-KLH/304, 310, 311, 328, 339, 341, 343 – 347, 351, 352, 358 (partial), 368, 370, 372, 375, 378, 379, 391, 392, 397, 400, 402, 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 in approving applications for Small House development in recent years, i.e. 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. These applications were generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the village 'environs' ('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; and/or the application site was the subject of a previously approved case.

- 6.3 After the Board's adoption of a more cautious approach, there are 20 applications approved with conditions by the Committee between 2016 and 2020. Of them, 17 (No. A/NE-KLH/503, 504, 523, 527, 529, 530, 531, 535, 541, 542, 553 – 555, 563, 564, 572 and 589) were approved mainly because there was previous approval. For the remaining three approved cases, Application No. A/NE-KLH/519 was approved mainly on consideration that there were similar applications approved in areas adjoining or in vicinity of the site, Application No. A/NE-KLH/533 involved a proposed Small House with more than 90% of footprint falling within the "V" zone; and Application No. A/NE-KLH/541 was located adjacent to and with similar planning circumstances as Application No. A/NE-KLH/533.
- 6.4 For the rejected applications, 27 (No. A/NE-KLH/299, 300, 303, 312, 314, 315, 321, 333, 334, 358 (partial), 360, 361, 362, 374, 380, 404, 430, 439 – 441, 443, 445, 455, 478, 479, 483 and 484) were considered before the Board's adoption of a more cautious approach, and most of them were rejected mainly on the grounds of not being able to be connected to the existing/planned sewerage system in the area. A total of 15 applications were rejected after the Board's adoption of a more cautious approach (No. A/NE-KLH/521, 526, 537, 538, 543, 544, 546, 548, 549, 556, 558, 559, 570, 573 and 577) for a reason that land was still available within "V" zone for Small House development.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
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) vacant, hard paved and partly fenced off;
 - (b) entirely within an area where the 'VE' of Yuen Leng and Kau Lung Hang San Wai and Lo Wai Villages overlaps with that of Tai Wo;
 - (c) within the upper indirect Water Gathering Grounds (WGG); and
 - (d) accessible by local tracks.
- 7.2 The surrounding areas are predominantly rural in character occupied by village houses, temporary domestic structures and active/abandoned agricultural fields.
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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the Small Houses - Application sites 		<p>100%</p> <p>100%</p>	<ul style="list-style-type: none"> - Both the Sites and the proposed Small House footprints fall entirely within “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the Small Houses - Application sites 	<p>100%</p> <p>100%</p>		<ul style="list-style-type: none"> - Both the Site and the proposed Small House footprint fall entirely within ‘VE’. - The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Yuen Leng, Kau Lung Hang San Wai and Lo Wai, and Tai Wo: about 25.61 ha (equivalent to 1024 Small House sites). The outstanding Small House applications are 166² while the 10-year Small House demand forecast for the same villages is 858.
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 8.75 ha (equivalent to about 348 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications as the Sites possess potential for agricultural rehabilitation.
5.	<p>Compatible with surrounding area/development?</p>	✓		<ul style="list-style-type: none"> - The surrounding areas are predominantly rural in character comprising village houses and active/fallow agricultural land.

² Among the 166 outstanding Small House application, 97 of them fall within the “V” zone and 69 straddle or outside the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within WGG?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications provided that the proposed Small Houses would be connected to the public sewer by the applicants.
7.	Sewerage impact?	✓		- The Director of Environmental Protection (DEP) has no objection to the applications on conditions that (i) the proposed houses will be connected to the public sewer; (ii) adequate land space within the Sites will be reserved for such connection; (iii) written consent can be obtained from relevant lot owners and/or LandsD for laying and maintaining sewage pipes; and (iv) cost of sewer connection and maintenance will be borne by applicants.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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 applications.
10.	Traffic impact?	✓		- The Commissioner for Transport (C for T) in general has reservation on the applications but considers that each of the applications only involving development of a Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) comments that there is no existing DSD maintained public drain available for connection in the area. Approval condition on the submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?		✓	- The 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 adverse impact on landscape resources due to the proposed developments is not anticipated.
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 from Government departments are at **Appendix V**.

- (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/Construction, Water Supplies Department;
- (h) Director of Electrical and Mechanical Services; and
- (i) Director of Fire Services.

9.3 The following Government departments have no objection to/ 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 VI)

On 4.12.2020, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, two public comments for each application were received from MTR Corporation Limited (MTRCL) and Designing Hong Kong. While MTRCL raises concerns on possible impact of railway noise on the proposed developments, the other commenter objects to the applications mainly for the reasons of being not in line with the planning intention of “AGR” zone, no shortage of land in “V” zone 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 as the Sites possess potential for agricultural rehabilitation.
- 11.2 The Sites and the footprints of the proposed Small Houses fall entirely within an area where the ‘VE’ of Yuen Leng and Kau Lung Hang San Wai and Lo Wai Villages overlaps with that of Tai Wo. DLO/TP of LandsD has no objection to both applications. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for these villages is 166 while the 10-year Small House demand forecast is 858. Based on the latest estimate by the PlanD, about 8.75 ha of land (or equivalent to about 348 Small House sites) are available within the “V” zones of the concerned villages (**Plan A-2b**).
- 11.3 The Sites are currently vacant, hard paved and located at the south-western fringe of Yuen Leng Village proper. The proposed Small House developments are not incompatible with their surrounding areas which are 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 adverse landscape impacts arising from the proposed developments are not anticipated.
- 11.4 The Sites fall within the upper indirect WGG. The applicants have proposed connecting the Small Houses with the existing public sewerage system and have obtained the consent of the relevant land owners for constructing a sewer from the Sites to the existing sewerage system via their lots (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the applications. Other relevant Government departments including C for T, CE/MN of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no in-principle objection to nor 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’ 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” zones (about 8.75 ha or equivalent to about 348 Small House sites) is insufficient to fully meet the future demand of 1024 Small Houses, it is capable to meet the outstanding 166 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 development within the

“V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 11.6 The Site of application no. A/NE-KLH/593 is the subject of previous application A/NE-KLH/444 for a proposed Small House development submitted by the same applicant, which was rejected by the Board on 22.2.2013 on review mainly for the reason of not complying with the Interim Criteria in that the proposed Small House located within the WGG would not be able to be connected to the planned sewerage system in the area. For the current applications, the applicants have proposed to connect the proposed Small Houses to the existing public sewerage system. On this basis, both DEP and CE/C, WSD have no objection to the applications.
- 11.7 As shown on **Plan A-2a**, there are 33 similar applications in close proximity to the Sites with 17 cases approved and 16 cases rejected. Out of these 17 approved applications, seven of them (Applications No. A/NE-KLH/271, 272, 273, 275, 277, 279 and 281) were approved before criterion (i) of the Interim Criteria came into effect on 3.8.2002; and 10 applications (No. A/NE-KLH/328, 341, 345, 346, 391, 392, 402, 409, 438 and 491) were approved between 2002 and 2015 before the adoption of a more cautious approach by the Board in recent years.
- 11.8 Among the 16 rejected applications, 12 (No. A/NE-KLH/299, 303, 321, 360, 362, 374, 380, 445, 455, 478, 479 and 484) were considered before the Board’s adoption of a more cautious approach. The four remaining cases (No. A/NE-KLH/526, 543, 548 and 570) were rejected for a reason that land was still available within the “V” zone for Small House development. Two of them (No. A/NE-KLH/526 and 548) involved a proposal for connection with a planned public sewerage system which, however, had been degazetted with no fixed programme for implementation. The other two (No. A/NE-KLH/543 and 570) proposed a connection with an existing public sewer but were still rejected having regard to the the availability of land within “V” zone for Small House development. The planning circumstances for rejection of these two similar applications are applicable to the current applications.
- 11.9 Regarding the adverse public comments mentioned in paragraph 10 above, the planning assessments and comments of concerned Government departments in above paragraphs are relevant. For MTRCL’s concern on noise impact, DEP advises that trackside noise barriers along East Rail Line have been erected and the applicants would be advised to apply adequate noise mitigation measures in the design of their Small Houses.

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 for the area 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 this planning intention; and

- (b) land is still available within the “V” zone of Yuen Leng, Kau Lung Hang and Tai Wo 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 infrastructures 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 8.1.2025, 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 a 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 VII**.

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

14. Attachments

Appendices Ia and Ib	Application forms and attachments received on 27.11.2020
Appendix II	Interim Criteria for Consideration of application for NTEH/Small House 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
Drawings A-1 to A-4	Site plans 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
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