

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/627

- Applicant** : Mr. WONG Wan Cheong Vince represented by Mr. HUI Kwan Yee
- Site** : Lots 258 S.A ss.2 and 258 S.C in D.D. 8, Tai Mong Che Village, Lam Tsuen, Tai Po, New Territories
- Site Area** : About 194.8 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zoning** : "Agriculture" ("AGR")
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, an indigenous villager (IV) of Tai Mong Che, 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, 'House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)' 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:
- | | | |
|------------------|---|----------------------|
| Roofed over Area | : | 65.03m ² |
| Total Floor Area | : | 195.09m ² |
| No. of Storeys | : | 3 |
| Building Height | : | 8.23m |
- 1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-LT/438), submitted by the same applicant for the same use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 24.2.2012. The planning permission subsequently lapsed on 25.2.2016. Compared with the previous application, the footprint and development parameters of the proposed Small House under current application remain the same.

- 1.5 In support of the application, the applicant has submitted the following documents :
- (a) application form and attachments received on **(Appendix I)** 21.11.2017
 - (b) further information enclosing responses to departmental comments received on 1.2.2018 **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
 - (c) further information enclosing a Geotechnical Planning Review Report (GPRR) received on 15.5.2018 **(Appendix Ib)**
(accepted but not exempted from publication and recounting requirements)
 - (d) further information enclosing a revised GPRR and responses to comments received on 21.6.2018 **(Appendix Ic)**
(accepted and exempted from publication and recounting requirements)
- 1.6 At the request of the applicant, the Committee agreed on 12.1.2018 and 16.3.2018 respectively to defer making a decision on the application each for two months to allow time for preparation of GPRR and further information to address departmental comments. Subsequently, the applicant submitted further information on 15.5.2018 and 21.6.2018. The application is re-scheduled for consideration by the Committee on 6.7.2018.

2. Justifications from the Applicant

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

- (a) the proposed Small House is located on a piece of vacant agricultural land and there is no alternative site for the proposed development;
- (b) there are similar Small House developments adjacent to the Site; and
- (c) the previous application No. A/NE-LT/438 was approved with validity up to 24.2.2016. The Small House grant application is being processed by LandsD, however, the applicant forgets to renew the planning permission before it is expired.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 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

5.1 The Site is the subject of a previous application (No. A/NE-LT/438) submitted by the same applicant for Small House development, which was approved with conditions by the Committee on 24.2.2012 mainly on the grounds that the proposed development generally complied with the Interim Criteria in that the Site was within the village 'environs' ('VE') of Tai Mong Che Village; there was a general shortage of land to meet the demand for Small House development in the "V" zone of the concerned village at the time of consideration; and the proposed development was able to be connected to the planned sewerage system in the area. The planning permission subsequently lapsed on 25.2.2016.

5.2 Details of the above 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 21 similar applications for Small House development in the vicinity of the Site and within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plans A-1** and **A-2a**). Out of them, 18 applications were approved and 3 were rejected.

6.2 Regarding the 18 approved applications, 13 of them (Applications No. A/NE-LT/356, 357, 358, 383, 398, 410, 442, 443, 444, 453, 472, 486 and 506) were approved between 2006 and 2014 before the Board adopted a more cautious approach in approving applications for Small House development in recent years. They were approved mainly for reasons that the application was in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the 'VE' of the concerned villages; 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 House was able to be connected to the planned sewerage system; and the proposed development was not incompatible with the surrounding uses and would unlikely cause any adverse impacts on the surrounding areas.

6.3 After that, five more applications were approved. Three applications (No. A/NE-LT/596, 603 and 607) were approved in 2017, amongst others, on special consideration that the sites were the subject of previously approved applications (No. A/NE-LT/442, 443 and 453) and there was no significant

change in planning circumstances since the previous approvals were given.

- 6.4 Two other applications (No. A/NE-LT/600 and 601) were approved by the Board on review in 2017 mainly for reasons that the application sites were infill sites within the existing village settlement and approving the applications would unlikely set an undesirable precedent for similar applications to the east of the sites where existing vegetation and trees would be affected.
- 6.5 For the three rejected cases (Applications No. A/NE-LT/423, 446 and 619), applications No. A/NE-LT/423 and 446 were rejected mainly for the reason of not complying with Interim Criteria in that the proposed development within WGG was not able to be connected to planned sewerage system in the area. Both applications No. A/NE-LT/423 and 619 were also rejected on the ground of causing adverse landscape impact on the surrounding area. Application No. A/NE-LT/619 was also rejected on the ground of land being still available within the "V" zone of concerned villages for Small House development. Besides, application No. A/NE-LT/446 was rejected for the reason of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint was located outside the 'VE'/'V' zone of the concerned villages and it would cause adverse geotechnical impact on the surrounding area.
- 6.6 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

7. **The Site and Its Surrounding Areas** (Plans A-1, A-2a, and photos on Plan A-3 and A-4)

7.1 The site is:

- (a) located at the bottom of a natural slope to the west and at the western fringe of Tai Yeung Che Village;
- (b) a piece of fallow agricultural land overgrown with grasses; and
- (c) accessible via a local track connecting to Tai Yeung Che Road.

7.2 The surrounding areas are predominantly rural in character with village houses, agricultural fields and dense woodland. The village proper of Tai Mong Che Village is on the northeast of the site and village houses are mainly located within the "V" zone on the east. Dense woodland is found on the west of the site.

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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within "V" zone ? - Footprint of the proposed Small House - Application site	-	100%	- Both the site and the footprint of the proposed Small House fall entirely within the "AGR" zone.
2.	Within 'VE'? - Footprint of the proposed Small House - Application site	100%	-	- The Site and the footprint of the proposed Small House fall entirely within the 'VE' of Tai Mong Che. The District Lands Officer/Tai Po, Lands Department (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 in Tai Mong Che and Ma Po Mei: about 7.88 ha (or equivalent to 315 Small House sites). The outstanding Small House applications are 45 ¹ while the 10-year Small House demand forecast for the same villages is 270. - Land available to meet Small House demand within the "V" zone of the villages concerned: about 2.38 ha (or equivalent to 95 Small House sites).
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 the site possesses high potential for agricultural rehabilitation.

¹ Among the 45 outstanding Small House applications, 23 of them fall within the "V" zone and 22 straddle or outside the "V" zone. For those 22 applications straddling or being outside the "V" zone, 7 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/ development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character mainly occupied by village houses, farmlands and tree groups.
6.	Within WGGs	✓		- The 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. - 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 boundaries?		✓	
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 the development of a Small House can be tolerated.
10.	Drainage impact?	✓		- The 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 the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the Small House to the existing public sewerage at Tai Mong Che and sewer connection is feasible and capacity is available.
12.	Landscape impact?	✓		<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view as no tree is found within the Site and adverse impact on landscape resources from the proposed development is not anticipated. - Approval condition on submission and implementation of landscape proposal is recommended.
13.	Geotechnical impact?	✓		<ul style="list-style-type: none"> - The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advises that the Site is overlooked by steep natural hillside and meets the Alert Criteria requiring a Natural Terrain Hazard Study (NTHS). He has no in-principle objection to the application as the applicant has committed to carry out an NTHS and to provide mitigation measures as part of the proposed development. - Should the application be approved, an approval condition on the submission of an NTHS and implementation of the mitigation measures recommended therein is

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				required.
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) Director of Agriculture, Fisheries and Conservation;
- (c) Director of Environmental Protection;
- (d) Director of Fire Services;
- (e) Commissioner for Transport;
- (f) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (g) Chief Engineer/Project Management, Drainage Services Department;
- (h) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (i) Chief Engineer/Mainland North, Drainage Services Department;
- (j) Director of Electrical and Mechanical Services; and
- (k) Chief Engineer/Construction, Water Supplies Department.

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

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

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

On 28.11.2017 and 25.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, two public comments were received from an individual objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; having adverse geotechnical impacts; and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within 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 high potential for agricultural rehabilitation.
- 11.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 45 while 10-year Small House demand forecast for the same villages is 270. Based on the latest estimate by the Planning Department, about 2.38 ha (or equivalent to about 95 Small House sites) of land are available within the “V” zone of Tai Mong Che and Ma Po Mei. As the footprint of the proposed Small House falls entirely within ‘VE’, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site located to the west of the village proper of Tai Mong Che Village (**Plan A-2a**) is currently vacant and overgrown with grasses (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses, agricultural land and tree groups (**Plans A-2a** and **A-3**). CTP/UD&L, PlanD advises that no tree was found within the Site and he has no objection to the application from landscape planning point of view as adverse impact on significant landscape resources due to the proposed Small House development is not anticipated.
- 11.4 The Site is within the upper indirect WGG. CE/MN, DSD advises that the Site is able to be connected to the public sewerage system in the area (**Plan A-2a**). The applicant has submitted a sewerage connection proposal and a consent letter from the owners of the adjacent lots to support the application (**Drawing A-1** and **Appendix I**). 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. C for T in general has reservation on the application but considers that the application only involving the development of a Small House can be tolerated. H(GEO) of CEDD advises that the proposed Small House is overlooked by steep natural hillside and meets the Alert Criteria requiring an NTHS. Since the applicant has submitted a GPRR and has committed to undertake an NTHS, he has no in-principle objection to the application. Other relevant Government departments including CHE/NTE of HyD, DEMS and D of FS have no objection to or adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the ‘VE’ of Tai Mong Che 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 2.38 ha or equivalent to about 95 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 45 outstanding Small House applications. 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 a previously approved application (No. A/NE-LT/438) submitted by the same applicant with no change to the footprint and the development parameters of the proposed Small House. According to LandsD, the preparation of the building licence is in progress. As the planning permission lapsed on 25.2.2016, the applicant is required to submit a fresh application. Hence, special consideration could be given to the current application.

- 11.6 There are 21 similar applications in the vicinity of the Site and within the same “AGR” zone (**Plan A-2a**). The circumstances of the current application are similar to Applications No. A/NE-LT/596, 603 and 607 in close vicinity of the Site which are approved by the Committee in 2017 mainly for reasons that while land was still available within the “V” zone to meet the outstanding Small House applications, special considerations were given to these applications as they were the subject of previously approved applications (i.e. No. A/NE-LT/442, 443 and 453).
- 11.7 Regarding the two public comments objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; having adverse geotechnical impacts; and setting of undesirable precedent, Government departments’ comments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public 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 6.7.2022, 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 submission and implementation of drainage proposal 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;
- (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; and
- (e) the submission of a natural terrain hazard study and the implementation of the mitigation measures identified therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department 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 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 Tai Mong Che and Ma Po Mei 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 a 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 21.11.2017
Appendix Ia Further information received on 1.2.2018

Appendix Ib	Further information received on 15.5.2018
Appendix Ic	Further information received on 21.6.2018
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Site plan and 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 "V" zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2018**