

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

**APPLICATION NO. A/NE-LT/631**

<b><u>Applicant</u></b>	Mr. CHUNG Cheuk Ming Derek
<b><u>Site</u></b>	Lot 748 S.A in D.D. 19, Chung Uk Tsuen, Tai Po, New Territories
<b><u>Site Area</u></b>	About 195m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, claiming as an indigenous villager of Chung Uk Tsuen<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, ‘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:

Total floor area	:	195.09m <sup>2</sup>
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

1.3 Layout of the proposed Small House including septic tank is shown on **Drawing A-1**.

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<sup>1</sup> The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the indigenous villager status of the applicant has not yet been ascertained.

- 1.4 In support of the application, the applicant has submitted an application form dated 28.12.2017 with the attachment (**Appendix I**).

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form and supplementary information at **Appendix I**. They can be summarized as follows:

- (a) the Site has long been abandoned and never been used for growing crops. The Site is not suitable for agricultural use due to poor soil quality and lacking of natural irrigation system in the area. Furthermore, the villagers in working ages of Chung Uk Tsuen have not acquired the knowledge and skill for agricultural activities;
- (b) the Site is within the village ‘environs’ (‘VE’) of Chung Uk Village and is situated close to the “V” zone. Meanwhile, the unused land within the “V” zone of Chung Uk Tsuen mainly comprise common areas for leisure, sports, place of worship, public car parks and parking space for emergence vehicles. There is no land available within the “V” zone for Small House development;
- (c) as the Site is located adjacent to the “V” zone and more than 600m away from She Shan River, the proposed septic tank would unlikely cause adverse environmental impacts on the water quality within the water gathering ground (WGG). Any wastes collected in the septic tank will be dissolved naturally on the Site and filtered by soil before reaching the river;
- (d) the Septic Tank System (STS) for the proposed Small House will be designed, constructed, used, desludged and repaired in accordance with the “Guidance Notes on Discharges from Village House” issued by the Environmental Protection Department. Specialist contractor will also be engaged to dispose of the sludge removed. In addition, to prevent overloading the STS and to achieve water saving propose, dual-flush toilet, shower instead of bath, plumbing fixtures and appliances with Water Efficiency Labels will be installed and provided extensively inside the proposed Small House; and
- (e) the Drainage Service Department has been repeatedly urged by the village representative of Chung Uk Tsuen to provide sewerage/drainage system in the area concerned.

## **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**

There is no previous application at the Site.

**6. Similar Applications**

6.1 There are seven similar applications (No. A/NE-LT/333, 386, 525, 527, 580, 592 and 621) 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**).

6.2 Application No. A/NE-LT/386 was approved with conditions by the Committee in 2008 mainly on the grounds of being complied with the Interim Criteria in that more than 50% of footprint of the Small Houses was within the VE’ and they were located close to the existing Small Houses and domestic structures; there was a general shortage of land to meet the demand for Small House development in the “V” zone at the time of consideration; and being able to be connected with the planned public sewerage system. The planning permission of application No. A/NE-LT/386 lapsed in 2012 and subsequent application No. A/NE-LT/580 submitted by the same applicant with minor changes in site boundary was approved in 2016 on special consideration of being the subject of a previously approved application.

6.3 Despite the proposed development not being able to be connected to the existing/planned public sewerage system, application No. A/NE-LT/333 was approved by the Board on review in 2005 under sympathetic consideration of being the subject of a previous application (No. A/NE-LT/126) approved in 1997 before the requirement on sewerage connection incorporated into the Interim Criteria in 2002.

6.4 For the remaining four applications, three of them (applications No. A/NE-LT/525, 527 and 592) were rejected by the Committee in 2015 and 2016 mainly on the grounds of being not in line with the planning intention of “AGR” zone and not complying with the Interim Criteria in that the proposed development was not able to be connected to the existing or planned sewerage system. For application No. A/NE-LT/621, although the proposed Small House development was able to be connected to the existing/planned public sewerage system, it was also rejected by the Committee in 2017 mainly for

the reason of not complying with the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas. Applications No. A/NE-LT/592 and 621 were also rejected for the reason that land was still available within the “V” zone of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai for Small House development.

6.5 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**

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

7.1 The Site is:

- (a) vacant and flat covered with groundcovers;
- (b) situated at the south-eastern fringe of Chung Uk Tsuen; and
- (c) accessible from an adjoining footpath leading to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character with village houses, tree groups and agricultural land. A cluster of village houses are found to the north of the Site, while Lam Kam Road is located about 80m to the further north 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:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone? - Footprint of the Small House - Application site	- -	100% 100%	- The Site and the footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the	100%	-	- The Site and the footprint of the proposed Small House fall

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Small House - Application site	100%	-	entirely within the 'VE' of Chung Uk Tsuen. 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 Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai: about 11.48 ha (or equivalent to 459 Small House sites). The outstanding Small House applications are 28 <sup>2</sup> while the 10-year Small House demand forecast is 431.  - Land available to meet Small House demand within the "V" zone of the villages concerned: about 3.61 ha (or equivalent to 144 Small House sites).
4.	Compatible with the planning intention of "AGR" zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural development point of view as agricultural infrastructure such as footpath is 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 occupied by village houses, active agricultural land and tree groups.
6.	Within Water Gathering Ground (WGG)?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) objects to the application as there is no

<sup>2</sup> Among the 28 outstanding Small House applications, there is one Small House application straddling or outside the "V" zone that has already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				information in the application to indicate that the proposed Small House could be connected to the public sewerage system in the area, and the applicant's proposed use of a septic tank system for foul water disposal, the wastewater generated from the proposed Small House will have the potential to cause water pollution within the WGG.
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 and advises that such type of development should be confined within the "V" zone as far as possible. However, the subject application only involves development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint.  - An approval condition on provision of drainage facilities is required.
11.	Sewerage impact?	✓		- The Director of Environmental Protection (DEP) does not support the application as there is no

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				public sewerage available in the near future in the area, and the applicant's proposed use of septic tank and soakaway system to treat wastewater is unacceptable within WGG.
12.	Landscape impact?	✓		<ul style="list-style-type: none"> <li>- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has some reservations on the application from the landscape planning point of view as approval of the application would set an undesirable precedent to similar developments within the "AGR" zone and the cumulative effect of approving such applications would result in degradation of the environment.</li> <li>- Should the application be approved, an approval condition on the submission and implementation of a landscape proposal is recommended.</li> </ul>
13.	Geotechnical impact?		✓	<ul style="list-style-type: none"> <li>- The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.</li> </ul>
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 and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;

- (f) Chief Engineer/Project Management, Drainage Services Department;
- (g) Director of Agriculture, Fisheries and Conservation;
- (h) Director of Fire Services;
- (i) Chief Engineer/Construction, Water Supplies Department; and
- (j) Director of Electrical and Mechanical Services.

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;
- (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 (Appendix V)**

On 5.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 26.1.2018, one public comment was received from an individual objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; not complying with the Interim Criteria in that the applicant failed to demonstrate that the proposed development located within WGG would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and land being still available within the “V” zone for Small House development.

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

11.1 The Site falls entirely within the “AGR” zone (**Plan A-2a**). The proposed Small House development is not in line with the planning intention of “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 agricultural development point of view as agricultural infrastructure such as footpath is available and the Site possesses potential for agricultural rehabilitation.

11.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Chung Uk Tsuen, San Uk Tsai, Tong Min Tsuen and Fong Ma Po is 28 while 10-year Small House demand forecast for the same villages is 431. Based on the latest estimate by the Planning Department, about 3.61 ha (or equivalent to about 144 Small House sites) of land are available within the “V” zone of Chung Uk Tsuen, San Uk Tsai, Tong Min Tsuen and Fong Ma Po. As the footprint of the proposed Small House falls entirely within ‘VE’ of Chung Uk Tsuen, DLO/TP, LandsD has no objection



to the application.

- 11.3 The Site situated at the south-eastern fringe of Chung Uk Tsuen is vacant and covered with grasses and groundcovers (**Plans A-2a** and **A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses, active agricultural land and tree groups (**Plan A-3**). Although adverse impact on significant landscape resources from the proposed development is not anticipated, CTP/UD&L of PlanD has some reservations on the application as approval of the application would set an undesirable precedent to similar developments within the “AGR” zone and the cumulative effect of approving such applications would result in degradation of the environment.
- 11.4 The Site is within the upper indirect WGG. The applicant has proposed the use of septic tank and soakaway system to treat wastewater. Both DEP and CE/C of WSD do not support the application as the proposed development does not comply with the Interim Criteria in that the proposed Small House within WGG is not able to be connected with the existing/planned public sewerage system. Besides, according to the HKPSG, use of septic tank and soakaway systems should be avoided for development in WGG. C for T has reservation on the application as such development should be confined within “V” zone as far as possible but considers that the application involving development of a Small House only can be tolerated. Other relevant Government departments including CE/MN of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), although more than 50% of the proposed Small House footprint falls within the ‘VE’ of Chung Uk Tsuen (**Plan A-2a**), the proposed Small House development does not comply with the Interim Criteria in that the applicant fails to demonstrate that the proposed development located within WGG would be able to be connected to the existing/planned sewerage system and would not cause adverse impact on the water quality in the area. Furthermore, notwithstanding that land available within the “V” zone for Small House development (about 3.61 ha or equivalent to about 144 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 28 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 and special consideration would be given to sites with previous approvals. There is no previous approval for the Site. As such, 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.
- 11.6 There are seven similar applications within the same “AGR” zone in the vicinity of the Site (**Plan A-2a**). Three of them (applications No. A/NE-LT/333, 386 and 580) covering two sites were approved with conditions

mainly on the grounds of being complied with the Interim Criteria in that more than 50% of the footprint of the Small Houses was located within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at the time of consideration; and being the subject of a previously approved application and/or being able to be connected to the planned sewerage system in the area. The other four applications (No. A/NE-LT/525, 527, 592 and 621) were rejected mainly on the grounds of not being in line with the planning intention of the "AGR" zone; and land being still available within the "V" zone of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai for Small House development. Furthermore, applications No. A/NE-LT/525, 527 and 592 were also rejected on the ground of not complying with the Interim Criteria in that the proposed developments were not able to be connected to the planned/existing sewerage system in the area. The planning circumstances of the current application is similar to these three rejected cases as all of them were not being able to be connected to the planned/existing sewerage system in the area.

- 11.7 Regarding the public comment objecting to the application mainly on the grounds of being not in line with the planning intention of "AGR" zone, not complying with the Interim Criteria; and land being still available within the "V" zone for Small House development, Government departments' comments and the planning assessment 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 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 planning justification in the submission for a departure from the planning intention;
  - (b) the proposed development does not comply with the Interim Criteria for consideration of application for NTEH/Small House in New Territories in that the applicant fails to demonstrate that the proposed development located within water gathering grounds would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
  - (c) land is still available within the "V" zone of Chung Uk Tsuen, Fong Ma Po, Tong Min Tsuen and San Uk Tsai 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 **9.2.2022**, 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 a 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; and
- (d) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix 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 attachment received on 28.12.2017 and supplementary information received on 3.1.2018 and 5.1.2018
- 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	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
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  
FEBRUARY 2018**