

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANING ORDINANCE

APPLICATION NO. A/NE-LT/635

<u>Applicant</u>	Mr. CHUNG Yuk Fai represented by Thomas Tsang Surveyors Limited
<u>Site</u>	Lots 1598 S.A RP and 1598 S.A ss.2 RP in D.D.19, Ha Tin Liu Ha Tsuen, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 196.1 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zonings</u>	“Agriculture” (“AGR”) (about 75.3 %) “Village Type Development” (“V”) (about 24.7 %)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claimed to be an indigenous villager (IV) of Tin Liu Ha¹, 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 ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 The Site is the subject of a previous application (No. A/NE-LT/345) for the same use, submitted by the same applicant of the current application, which

¹ According to Lands Department’s record, the applicant’s eligibility of Small house grant has not yet been ascertained.

was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 25.11.2005. The planning permission subsequently lapsed on 26.11.2009. Compared with the previous application (No. A/NE-LT/345), the footprint and development parameters of the proposed Small House under current application remain the same.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachments received on **(Appendix I)** 27.3.2018
 - (b) further information providing revised justification **(Appendix Ia)** and minor clarification on sewerage proposal (with written consent of the concerned lot owner) received on 12.4.2018 and 13.4.2018 (*accepted and exempted from publication and recounting requirement*)
- 1.5 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendix F at **Appendix Ia**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Ha Tin Liu Ha, Tai Po;
- (b) about 30% of the proposed Small House falls within the “V” zone of Ha Tin Liu Ha. The remaining area falls within the “AGR” zone;
- (c) because of financial difficulty, the applicant cannot purchase other land such that the footprint of the proposed Small House is completely within the “V” zone of Ha Tin Liu Ha;
- (d) the proposed development is considered compatible with the rural environment and will not be visually intrusive to the surrounding;
- (e) the proposed development would not cause any adverse environmental impacts since no tree felling is needed;
- (f) foul water from the proposed Small House will be discharged to the adjoining public sewage system (Government Manhole FMH 1052706);
- (g) there is a track leading to the Site. Therefore, the development would not cause any adverse traffic impacts to the surrounding;
- (h) similar applications (No. A/NE-LT/108, 179, 344, 345, 346 and 489) for Small

by the Committee in the past; and

- (i) the previous application No. A/NE-LT/345 was approved with validity up to 25.11.2009. The applicant was advised that construction of the Small House could only commence after the completion of the public sewerage network. The public sewerage network is now complete.

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/345) for Small House development, submitted by the same applicant, which was approved with conditions by the Committee on 25.11.2005 mainly on the grounds that the proposed development generally complied with the Interim Criteria in that was within the village ‘environs’ (‘VE’) of Ha Tin Liu Ha Tsuen; 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 26.11.2009.
- 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 nine similar applications for Small House development in the vicinity of the Site within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Applications No. A/NE-LT/344, 346 and 489 were approved with conditions by the Committee between 2005 and 2013 mainly on the grounds of being

complied with the Interim Criteria in that more than 50% of the Small House footprint was 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 the proposed development was able to be connected to the planned public sewerage system in the area. Application No. A/NE-LT/489 was also approved on the grounds of being the subject of a previously approved application (No. A/NE-LT/344) and there had been no major change in planning circumstances.

- 6.3 For the six rejected cases (No. A/NE-LT/413, 570, 571, 578, 618 and 623), they were rejected by the Committee/the Board on review between 2011 and 2018 mainly on the grounds of not complying with the planning intention of "AGR" zone and the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in "V" zone at the time of consideration. Applications No. A/NE-LT/570, 578, 618 and 623 were also rejected for the reasons of not being able to be connected to the existing or planned sewerage system and/or land being still available within the "V" zone of concerned villages for Small House development. In addition, Application No. A/NE-LT/578 was rejected on the ground that the proposed development would cause adverse landscape impact to the surroundings.
- 6.4 Regarding Applications No. A/NE-LT/108 and 179 mentioned by the applicant, they were approved by the Committee before the Interim Criteria was first promulgated on 24.11.2000.
- 6.5 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 Area (Plans A-1, A-2a and photos on Plans A-3 and A-4)

- 7.1 The Site is:
 - (a) generally flat, partly used for parking of vehicles and partly occupied by active farmland;
 - (b) located at the north-eastern fringe of Ha Tin Liu Ha and situated to the immediate south of an existing village house; and
 - (c) accessible by a local track.
- 7.2 The surrounding areas are predominantly rural in character with a mix of village houses, agricultural land and tree groups. The village proper of Ha Tin Liu Ha is located about 60m to the south.

8. Planning Intentions

- 8.1 The planning intention of the "V" zone is to designate both existing

recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small House by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 8.2 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

- 9.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the Small House - Application site	15.4% 24.7%	84.6% 75.3%	- The remaining portion of the Site and the footprint of the proposed Small House fall within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Ha Tin Liu Ha. 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 Tin Liu Ha and Ko Tin Hom: about 3.5 ha (or equivalent to 140 Small House sites). The outstanding Small House applications are 10 ² while the 10-year Small House demand forecast for the same villages is 130. - Land available to meet Small House demand within the “V” zones of the villages concerned: about 3.59 ha (or equivalent to 143

² Among the 10 outstanding Small House applications, there are six Small House applications straddling or outside the “V” zone and one of them has obtained planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 application from agricultural development point of view as 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, farmlands and tree groups.
6.	Within Water Gathering Ground (WGG)?	✓		- 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - 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 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 Ha Tin Liu Ha 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 perspective as adverse impact on significant 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) has no comment on the application.
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 V.

- (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;
- (j) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (k) 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) District Officer (Tai Po), Home Affairs Department; and
- (c) Project Manager/North, Civil Engineering and Development Department.

10. Public Comment Received During Statutory Publication Period

On 3.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received on the application.

11. Planning Considerations and Assessments

- 11.1 The Site falls mainly within the “AGR” zone and partly within the “V” 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 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 Tin Liu Ha and Ko Tin Hom is 10 while 10-year Small House demand forecast for the same villages is 130. Based on the latest estimate by the Planning Department, about 3.59 ha (or equivalent to about 143 Small House sites) of land are available within the “V” zone of Tin Liu Ha and Ko Tin Hom. 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 at the north-eastern fringe of Ha Tin Liu Ha (**Plan A-2a**) is generally flat, partly being occupied by active farmland and partly used for

parking of vehicles (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses, active and fallow agricultural land and tree groups (**Plans A-2a** and **A-3**). CTP/UD&L, PlanD advises that no tree was spotted 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 and is more than 30m away from the nearest stream. 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 proposed to connect the proposed Small House to the public sewerage system (**Plan A-2a** and **Drawing A-1**). 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 applicant but considers that the application only involving the development of a Small House can be tolerated. Other relevant Government departments including 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 the proposed Small House footprint falls entirely within the 'VE' of Ha Tin Liu Ha and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**), the proposed Small House does not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the "V" zone. As land is available within the "V" zone (about 3.59 ha or equivalent to about 143 Small Houses) to fully meet the future Small House demand of 140 Small Houses (**Plan A-2b**), 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 Nevertheless, the Site is the subject of a previously approved application (No. A/NE-LT/345) submitted by the same applicant with no change to the footprint and the development parameters. According to the approval letter issued on 9.12.2005, the actual construction of the proposed Small House shall only begin after the completion of the public sewerage network. As advised by CE/PM of DSD, the public sewerage system in the area has recently been completed in 2016. Hence, sympathetic consideration could be given to the current application based on its exceptional circumstances in that the completion of the planned public sewerage system in the area is beyond the control of the applicant.
- 11.7 There are nine similar applications in the vicinity of the Site (**Plan A-2a**). For the six rejected applications (No. A/NE-LT/413, 570, 571, 578, 618 and 623), they were rejected by the Committee/the Board on review between 2011 and 2017 mainly on the grounds of being not in line with the planning intention of the "AGR" zone and the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in "V" zone; and

not being able to be connected to the planned sewerage system in the area and/or land being still available within the “V” zone for Small House development. Application No. A/NE-LT/578 was also rejected for the reason of having adverse landscape impact to the surroundings. Regarding the remaining three applications (No. A/NE-LT/344, 346 and 489), they were approved by the Committee between 2005 and 2013 mainly on the grounds of complying with the Interim Criteria in that there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at the times of consideration; and being able to be connected to the planned sewerage system in the area. Application No. A/NE-LT/489 was also approved by the Committee in 2013 on the ground of being the subject of a previously approved application (No. A/NE-LT/344). The circumstances of the current application is similar to Application No. A/NE-LT/489.

11.8 There is no public comment received on the application.

12. Planning Department’s Views

12.1 Based on the assessment made in paragraph 11, 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 **18.5.2022**, 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; 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**.

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 which is primary 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;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "V" zone of Tin Liu Ha and Ko Tin Hom; and
- (c) land is still available within the "V" zone of Tin Liu Ha and Ko Tin Hom 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.

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

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| Appendix I | Application form and attachment received on 27.3.2018 |
| Appendix Ia | Further information received on 12.4.2018 and 13.4.2018 |
| 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	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
MAY 2018**