

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/648

<u>Applicant</u>	Mr. CHEUNG Chun Hei represented by T.H. & Associates Limited
<u>Site</u>	Lots 9 and 10 in D.D. 25, Tai Om, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 216.3m 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>	“Village Type Development” (“V”) (about 21.8%) and “Agriculture” (“AGR”) (about 78.2%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, claiming as an indigenous villager of Tai Om¹, 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, whilst ‘House (NTEH) only’ is always permitted in the “V” zone, ‘House (NTEH) only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ in 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 Layout of the proposed Small House development and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively.

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

1.4 In support of the application, the applicant has submitted an application form dated 31.7.2018 with the attachment (**Appendix I**).

2. Justifications from the Applicant

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

- (a) the applicant is an indigenous villager of Tai Om. Available land within the “V” zone is limited and there is high demand of Small House application. Therefore, it is nearly impossible to acquire land within the “V” zone so that the footprint of the proposed Small House is entirely within the “V” zone;
- (b) the proposed development is considered compatible with the surrounding rural environment and will be visually non-intrusive to the surrounding;
- (c) the wastewater generated from the proposed Small House would be discharged to the public sewerage system in the vicinity;
- (d) as the Site is only accessible by foot and there is no vehicular access leading to the Site, the proposed development would not cause any adverse traffic impacts to the surrounding; and
- (e) there are similar approved applications (No. A/NE-LT/184, 185, 208, 392 and 504) for Small House development in the “AGR” zone.

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 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 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, five were approved with conditions and two were rejected.
 - 6.2 Application No. A/NE-LT/258 was approved before the incorporation of criterion (i) on sewerage connection requirement into the Interim Criteria in August 2002. To its north, Application No. A/NE-LT/292 was rejected by the Board upon review in 2003 mainly for the reason of not being able to be connected to the planned sewerage system in the area and there was no information to demonstrate the proposed developments would have no adverse impact on water quality in the area. Subsequently, Application No. A/NE-LT/392 for development of two Small Houses, covering the application site of Application No. A/NE-LT/292, was approved by the Committee in 2009 mainly for the reason of generally complying with the Interim Criteria and planned public sewerage system is available in the vicinity for connection.
 - 6.3 Application No. A/NE-LT/343 was rejected by the Board upon review in 2005 mainly on the grounds that the proposed development did not comply with the Interim Criteria in that more than 50% of the footprint of the proposed Small House fell outside of “V” zone of concerned village and ‘VE’ of any recognised village. Nonetheless, the subsequent Application No. A/NE-LT/404, with enlarged site area and shifting of the proposed Small House footprint, so that more than 50% of the footprint was within the “V” zone, was considered in compliance with the Interim Criteria and it was approved by the Committee in 2010.
 - 6.4 The remaining two applications (No. A/NE-LT/361 and 504) were approved by the Committee in 2006 and 2014 respectively mainly on the grounds that more than 50% of the footprint of the Small House fell within the ‘VE’ of the recognised village; 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 would be able to be connected to the planned sewerage system in the area.
 - 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**.
 - 6.6 Regarding the other similar applications (No. A/NE-LT/184, 185 and 208) mentioned by the applicant, they were approved before the promulgation of the Interim Criteria on 24.11.2000.
- 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) hard-paved and occupied by a temporary structure for domestic use; and

- (b) located at the southwestern fringe of Tai Om and adjoining a stream course; and
- (c) accessible by a footpath connecting to Tai Om Road.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, active/fallow agricultural land and woodland. The proposed Small House footprint is located about 4m from the stream course to its immediate west. Existing village houses are found to the north and northwest of the Site.

8. Planning Intentions

8.1 The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses 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	26.3% 21.8%	73.7% 78.2%	- The remaining portions of the Site and the footprint of proposed Small House fall entirely 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 ‘VE’ of Tai Om. - District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> - Land required to meet Small House demand in Tai Om and Ping Long is about 8.05 ha (or equivalent to 322 Small House sites). The outstanding Small House applications are 42² while the 10-year Small House demand forecast for the same villages is 280. - Land available to meet Small House demand within the “V” zone of the villages concerned: about 5.7 ha (or equivalent to 228 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is occupied by an existing structure and possesses low potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The proposed Small House is not incompatible with the surrounding area which is rural in landscape character occupied by farmland, village houses and woodland. Village cluster is found in close proximity of the Site.
6.	Within Water Gathering Ground (WGG)?	✓		<ul style="list-style-type: none"> - 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 public sewerage system in the area. - Approval conditions on

² Among the 42 outstanding Small House applications, 33 of them within the “V” zone and nine straddle or outside the “V” zone. For those applications straddling or being outside the “V” zone, two of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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) has no in-principle objection to the application.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?	✓		- The Director of Environmental Protection (DEP) has no objection to the application as there is public sewerage available at Tai Om. However, the proposed private sewer manhole and downstream sewer in the sewer connection proposal may have conflict with the DSD's existing public sewer. The applicant shall consult DSD and revise the sewer connection proposal.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>planning point of view as the Site is hard paved with a temporary structure and adverse impact on significant landscape resources from the proposed development is not anticipated.</p> <p>- Approval condition on submission and implementation of landscape proposal is recommended.</p>
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 are at **Appendix IV**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Environmental Protection;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Commissioner for Transport;
- (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 7.8.2018, the application was published for public inspection. During the first

three weeks of the statutory public inspection period, one public comment was received from the Hong Kong Bird Watching Society objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zones; having adverse ecological impact; and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area partly zoned “V” (about 21.8%) and partly zoned “AGR” (about 78.2%) (**Plan A-2a**). 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 and it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC has no strong view on the application as the Site is occupied by an existing structure and possesses low potential for agricultural rehabilitation.
- 11.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tai Om and Ping Long is 42 while the 10-year Small House demand forecast is 280. Based on the latest estimate by the Planning Department, about 5.7 ha of land (or equivalent to about 228 Small House sites) are available within the “V” zone of the concerned villages. As the footprint of the proposed Small House falls entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site, located at the southwestern fringe of Tai Om, is hard paved and occupied by a temporary structure for domestic purpose (**Plans A-2a and A-4**). There are village houses situated to the north and northwest of the Site. A stream course is found to the immediate west of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of farmland, village houses and woodland (**Plan A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as the Site is hard-paved with a temporary structure and adverse impact on significant landscape resources from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG. CE/MN, DSD advises that the Site is within an area where connections to existing sewerage networks are available in the vicinity (**Plan A-2a**) and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at Tai Om (**Drawing A-2**). 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. As the Site is situated next to a stream course, DEP also advises that the applicant should follow *ProPECC PN 1/94 Construction Site Drainage* to properly handle and dispose of site discharge during construction phase. Since the shortest distance between the proposed Small House and the concerned stream course is more than 3m, CE/MN of DSD has no comment on the application. Other relevant Government departments including C for T, CE/PM 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**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Tai Om 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 5.7 ha or equivalent to about 228 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 42 outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.6 There are seven similar applications in the vicinity of the Site and within the same “AGR” zone (**Plan A-2a**). Two of them (Applications No. A/NE-LT/292 and 343) were rejected for the reasons of not being in line with the planning intention of “AGR” zone; and either not being able to be connected to the planned sewerage system in the area (Application No. A/NE-LT/292) or not complying with the Interim Criteria in that more than 50% of the Small House footprint fell outside of “V” zone and ‘VE’ (Application No. A/NE-LT/343). The other five applications were approved either before the incorporation of criterion (i) on sewerage connection requirement into the Interim Criteria (Application No. A/NE-LT/258) or before the adoption of a more cautious approach by the Board (Applications No. A/NE-LT/361, 392, 404 and 504). The latter four applications were approved on the grounds of complying with the Interim Criteria in that more than 50% of the footprint of the Small House fell within the ‘VE’ or “V” zone and 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 able to be connected to the planned sewerage system in the area. Their circumstances are not the same as current application.
- 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” zones; having adverse ecological impact; and setting of undesirable precedent, Government departments’ comments and the planning assessments and considerations 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 and also

intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and

- (b) land is still available within the “V” zone of Tai Om and Ping Long 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 **21.9.2022**, 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**.

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 31.7.2018
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 comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	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
SEPTEMBER 2018**