

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/651

<u>Applicant</u>	Mr. CHUNG Yat Sang represented by Ms. LING Lin Kiu
<u>Site</u>	Lot 1282 S.B in D.D. 19, Pak Tin Kong Village, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 170.1m ²
<u>Lease</u>	Block Government Lease (demised for agricultural purpose)
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zonings</u>	“Village Type Development” (“V”) (about 48%) and “Agriculture” (“AGR”) (about 52%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims to be an indigenous villager (IV) of Tin Liu Ha, Tai Po¹, 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
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

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

- 1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawings A-2 and A-3**. The uncovered area is proposed for garden use.
- 1.4 In support of the application, the applicant has submitted an application form dated 7.8.2018 with the attachment (**Appendix I**) and supplementary information dated 13.8.2018 (**Appendix Ia**).

2. Justifications from the Applicant

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

- (a) the applicant does not own any property in the village; and
- (b) building a Small House on the Site is the only way to solve housing problem of the family.

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 14 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**). Five of them were approved and nine were rejected.
- 6.2 Of the five approved cases, three applications (No. A/NE-LT/253, 254 and 264) were approved with conditions by the Committee in 2001 before the

introduction of criterion (i) of the Interim Criteria requiring connection to the existing or planned sewerage system . Application No. A/NE-LT/430 was approved in 2011 mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was within ‘VE’/“V” zone; being able to be connected to the public sewerage system; and there was a general shortage of land within the concerned “V” zone to meet the future Small House demand at the time of consideration. Although application No. A/NE-LT/622, which was approved in 2017, did not fully comply with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the concerned “V” zone at the time of consideration, sympathetic consideration was given to the application as the application site was situated to the immediate northwest of the village cluster of Chuen Shui Tseng and about 84% of the proposed Small House footprint fell within the “V” zone.

- 6.3 Regarding the nine rejected cases (No. A/NE-LT/309, 315, 512, 546, 572, 573, 625, 626 and 637), they were rejected by the Committee/the Board on review between 2003 and 2018 mainly on the grounds of being not in line with the planning intention of “AGR” zone; and/or not able to be connected to the existing or planned sewerage system. Applications No. A/NE-LT/315, 512 and 546 were also rejected on the grounds that more than 50% of the footprint of the proposed Small House fell outside the ‘VE’/“V” zone. Moreover, Applications No. A/NE-LT/546, 572, 573, 625, 626 and 637 were also rejected between 2016 and 2018 after the Board’s adoption of a more cautious approach in that they did not comply with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in “V” zone of the concerned village(s) and land was still available within the “V” zone for Small House development.
- 6.4 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 Areas (Plans A-1, A-2a and Photos on Plans A-3 and A-4a to A-4c)

- 7.1 The Site is:
- (a) comprised of two portions and wall-fenced;
 - (b) generally flat, hard-paved with a structure for storage purpose;
 - (c) situated to the eastern fringe of Pak Tin Kong village cluster and located to the immediate east of a Small House; and
 - (d) abutted a village access leading to Lam Kam Road.
- 7.2 The surrounding areas are predominantly rural in character with a mix of village houses, fallow agricultural land and scattered tree groups. Village cluster of Pak Tin Kong are found to the west and southwest 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 proposed Small House - Application site	27%	73%	- More than 50% of the footprint of the proposed Small House falls outside the “V” zone (Plan A-2a).
		48%	52%	- The remaining portions of the Site and the footprint of the proposed Small House fall 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 falls entirely outside the ‘VE’ of Chuen Shui Tseng (Plan A-2a).
			100%	- As more than 50% of the Site and the Small House footprint fall outside both the “V” zone and the ‘VE’, DLO/TP, LandsD does not support the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small		✓	- Land required to meet Small House demand in Chuen Shui Tseng : about 1.9 ha (or equivalent to 76 Small House sites). The outstanding Small House applications for Chuen Shui Tseng

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	House demand)?			<p>are 11² while the 10-year Small House demand forecast provided by the Indigenous Inhabitant Representative (IIR) is 65³.</p> <p>- Land available to meet Small House demand within the “V” zone of the villages concerned: about 0.84 ha (or equivalent to 33 Small House sites) (Plan A-2b).</p>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is occupied by an existing temporary structure and the potential for agricultural rehabilitation is low.
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 with village houses, agricultural land and tree groups.
6.	Within WGG?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) objects to the application as it does not comply with the Interim Criteria in that more than 50% of the proposed Small House footprint falling outside both the ‘VE’ and the “V” zone.
7.	Encroachment onto planned road networks and public works boundaries?		✓	

² Among the 11 outstanding Small House applications, 4 of them fall within the “V” zone and 7 straddle or outside the “V” zone. For those 7 applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

³ The IIR of Lung A Pai (who is also the acting IIR of Chuen Shui Tseng) informed LandsD that the 10-year Small House demand forecast for Chuen Shui Tseng and Pak Tin Kong is 65. However, DLO/TP of LandsD advises that Pak Tin Kong is not a recognized village, and the information so obtained is not verified by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 the applicant has proposed to connect the Small House to the existing public sewerage at Pak Tin Kong (Plan A-2a) and sewer connection is feasible and capacity is available for the proposed Small House development.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from landscape planning point of view as approval of the application would set an undesirable precedent to similar developments encroaching onto the “AGR” zone and cumulative effect of approving similar applications would change the landscape character and cause adverse landscape impact to the area.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- Should the application be approved, approval condition on submission and implementation of landscape proposal is recommended.
13.	Geotechnical impact?		✓	
14.	Local objection received from 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 IV**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Project Management, Drainage Services Department;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Agriculture, Fisheries and Conservation; and
- (i) Director of Fire Services.
- (j) Director of Electrical and Mechanical Services; and
- (k) District Officer/Tai Po, Home Affairs Department;

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department; and
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

10. Public Comment Received During Statutory Publication Period

On 14.8.2018, 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 (**Appendix V**) objecting to the application on the grounds of being not in line with the planning intention of “AGR” zone; causing adverse environmental impacts; and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area partly zoned “V” (48%) and partly zoned “AGR” (52%) (**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 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 the potential for agricultural rehabilitation is low (**Plans A-4a to A-4c**).
- 11.2 According to DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Chuen Shui Tseng is 11 while the 10-year Small House demand forecast provided by the IIR concerned is 65⁴. Based on the latest estimate by the Planning Department, about 0.84 ha (or equivalent to about 33 Small House sites) of land is available within the “V” zone concerned (**Plan A-2b**). As the proposed Small House footprint falls entirely outside the ‘VE’ of Chuen Shui Tseng and more than 50% of it falls outside the “V” zone concerned, DLO/TP of LandsD objects to the application. CE/C of WSD also objects to the application as it does not comply with the Interim Criteria in that more than 50% of the proposed Small House footprint falling outside both the ‘VE’ and the “V” zone.
- 11.3 The Site comprising of two portions is wall-fenced and hard-paved with an existing temporary structure (**Plans A-4a to A-4c**). The village cluster of Chuen Shui Tseng is situated to the immediate west and southwest of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of village houses, agricultural land and tree groups. CTP/UD&L of PlanD advises that an existing *Litchi sinensis* (荔枝) is recorded at the north-western corner of the Site (**Plan A-2a**). Despite adverse impact to significant landscape resources is not anticipated, he has some reservations on the application from landscape planning point of view as approval of the application would set an undesirable precedent to similar developments encroaching onto the “AGR” zone and the cumulative effect of approving similar applications would result in change of landscape character and cause adverse landscape impact to the area.
- 11.4 The Site falls within the upper indirect WGG. CE/MN of DSD advises that the Site is within an area where connections to existing sewerage networks are available in the vicinity and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at Pak Tin Kong (**Plan A-2a**). DEP has 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. Besides, the southern part of the Site includes an existing track. DO/TP of HAD requests the applicant to maintain the accessibility of the existing footpath or to provide an alternative footpath to link up the area during and

⁴ While DLO/TP of LandsD advises that Pak Tin Kong is not a recognized village, the acting IIR of Chuen Shui Tseng informed LandsD that the 10-year Small House demand forecast for Chuen Shui Tseng and Pak Tin Kong is 65 without providing a breakdown of the forecast between the two villages.

after the construction of the proposed Small House. Other relevant Government departments including C for T, CE/PM of DSD, CHE/NTE of HyD, PM(N) and 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 development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**), it does not comply with the Interim Criteria in that more than 50% of the proposed Small House footprint falls outside both the 'VE' and the "V" zone of Chuen Shui Tseng (**Plan A-2a**). While land available within the "V" zone (about 0.84 ha or equivalent to about 33 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 11 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 (No. A/NE-LT/253, 254, 264, 315, 430, 512 and 622) in close vicinity of the Site (**Plan A-2a**). Four of them (applications No. A/NE-LT/253, 254, 264 and 430) were approved before the adoption of a more cautious approach by the Board. For application No. A/NE-LT/622, although there was no general shortage of land in meeting the demand for Small House development in the concerned "V" zone at the time of consideration, it was approved on 22.12.2017 on sympathetic consideration that the application site was situated to the immediate northwest of the village cluster of Chuen Shui Tseng and about 84% of the proposed Small House footprint largely fell within the "V" zone. The other two applications (No. A/NE-LT/315 and 512) were rejected in 2004 and 2014 respectively mainly on the grounds of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside the 'VE'/'V" zone and being not able to be connected to the existing or planned sewerage system. The planning circumstances of the current application is similar to these two rejected applications in that the proposed Small House footprint falls outside both the 'VE' and the "V" zone.
- 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; causing adverse environmental 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 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 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 New Territories in that more than 50% of the footprint of the proposed Small House falls outside the "V" zone and the 'VE' of Chuen Shui Tseng; and
- (c) land is still available within the "V" zone of Chuen Shui Tseng 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 5.10.2022, 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 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 attachments received on 7.8.2018
Appendix Ia	Supplementary information received on 13.8.2018
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	Lot index plan submitted by the applicant
Drawing A-2	Layout plan submitted by the applicant
Drawing A-3	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
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2018**