

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

**APPLICATIONS NO. A/NE-LT/659 and 660**

- Applicants** : Mr. LAM Yat Sang (Application No. A/NE-LT/659)  
Mr. LAM Jin Li Simon (Application No. A/NE-LT/660)  
  
both represented by Mr. HUI Kwan Yee
- Sites** : Lots 348 S.A ss.1 S.A and (Application No. A/NE-LT/659)  
348 S.A ss.2 S.A  
Lots 348 S.A ss.1 RP, 348 S.A ss.2 RP (Application No. A/NE-LT/660)  
and 353 RP  
  
all in D.D.19, Hang Ha Po, Tai Po, New Territories
- Site Areas** : About 126.5m<sup>2</sup> (Application No. A/NE-LT/659)  
About 150.7m<sup>2</sup> (Application No. A/NE-LT/660)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zonings** : “Agriculture” (“AGR”) (about 56%) (Application No. A/NE-LT/659)  
and “Village Type Development”  
 (“V”) (about 44%)  
  
“AGR” (about 61%) and (Application No. A/NE-LT/660)  
“V” (about 39%)
- Applications** : Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites

**1. The Proposals**

- 1.1 The applicants, indigenous villagers of Hang Ha Po of Tai Po Heung seek planning permissions to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH) only’ use 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)’ use within the “AGR” zone requires planning permission from the Town Planning Board

(the Board).

1.2 Details of each 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 Houses as well as the proposed sewerage connections are shown on **Drawings A-1** and **A-2**.

1.4 In support of the applications, the applicants have submitted the following documents:

- (a) application forms and attachments received on 4.12.2018 (**Appendices Ia and Ib**)
- (b) further information providing sewerage connection proposals (involves Government land only) received on 20.12.2018 (*accepted and exempted from publication and recounting requirement*) (**Appendix Ic**)

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications stated in Part 9 of the application forms at **Appendices Ia** and **Ib** are summarized as follows:

- (a) the Sites are vacant agricultural land. The applicants have no alternative sites for the proposed Small House developments; and
- (b) Small House developments can be found in the vicinity of the Sites.

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

The applicants are the sole “current land owners”. 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 Sites.

## 6. Similar Applications

- 6.1 There are nine similar applications for Small House development in the vicinity of the Sites and within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**).
- 6.2 Five of them (Applications No. A/NE-LT/265, 277, 293, 351 and 416) were rejected by the Committee/the Board on review between 2001 and 2011. Application No. A/NE-LT/265 was rejected mainly for the reason of not complying with the Interim Criteria in that only a small portion of the proposed development fell within the ‘VE’ and the application site fell outside the “V” zone. Applications No. A/NE-LT/277, 293 and 351 were rejected mainly on the ground of not complying with the Interim Criteria in that the proposed development was not able to be connected to existing or planned public sewerage system and there was no/insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the water quality in the area. Application No. A/NE-LT/351 was also rejected for the reason of being partly encroached upon the works limit for a proposed river improvement works. For Application No. A/NE-LT/416, it was rejected mainly on the ground that the approval of that application would set an undesirable precedent for similar applications for housing development within the subject “AGR” zone and the cumulative impact of approving such applications would adversely affect the existing pleasant rural landscape quality of the area.
- 6.3 The remaining four applications (No. A/NE-LT/359, 367, 447 and 537) were approved with conditions by the Committee between 2006 and 2015 mainly on the grounds of complying with the Interim Criteria in that more than 50% of the Small House footprint was located within the village ‘environs’ (‘VE’)/“V” zone; and the proposed development was able to be connected to the planned sewerage system. Applications No. A/NE-LT/359, 367 and 447 were also approved as 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. For Application No. A/NE-LT/537, it was approved in October 2015 by the Committee on sympathetic consideration as the site was surrounded by existing village houses and sandwiched between the boundary of the “V” zone and the ‘VE’ limit of San Uk Pai.
- 6.4 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

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

7.1 The Sites are:

- (a) generally flat, partly hard-paved and occupied by construction materials;
- (b) situated at the fringe of village proper and surrounded by existing village houses; and
- (c) accessible by a local track leading to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, agricultural land and tree groups. Water courses are found to the immediate north and about 10m to the east. She Shan River is located about 70m to the further east.

**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 applications have 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? <u>A/NE-LT/659</u>			- The remaining portion of the Sites and the footprint of the proposed Small Houses fall within the “AGR” zone.  - More than 50% of the footprint of the proposed Small Houses fall within the “V” zone. The District Lands Officer/Tai Po, Lands
	- Footprint of the Small House	53%	47%	
	- Application site	44%	56%	
	<u>A/NE-LT/660</u>			
	- Footprint of the Small House	54%	46%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Application site	39%	61%	Department (DLO/TP, LandsD) has no objection to the applications.
2.	<p>Within 'VE'?</p> <p><u>A/NE-LT/659 and 660</u></p> <p>- Footprint of the Small House</p> <p>- Application site</p>	-	100%	- The Sites and the footprint of the proposed Small Houses fall outside the 'VE' of any recognized village.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Hang Ha Po, San Uk Pai and Kau Liu Ha: about 5.36 ha (or equivalent to 214 Small House sites). The outstanding Small House applications are 36 while the 10-year Small House demand forecast for the same villages is 178.
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the "V" zones of the villages concerned: about 3.89 ha (or equivalent to 155 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of "AGR" zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the applications from agricultural development point of view as the Sites are surrounded by existing structures and the potential for agricultural rehabilitation is low.
5.	Compatible with surrounding area/development?	✓		- The proposed Small Houses are not incompatible with the surrounding areas which are predominantly rural in character mainly occupied by village houses, abandoned 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 applications as the proposed Small Houses are able to be connected to the existing public sewerage system.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- 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 applications.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no in-principle objection to the applications.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) does not support the applications from public drainage viewpoint as the footprint of the proposed Small Houses are located less than 3m from the stream course and the proposed Small Houses might be eroded and flooded. There might be flooding susceptibility of the adjoining areas affected by the proposed developments.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the applications as the applicants have proposed to connect the Small Houses to the existing public sewerage system.
12.	Landscape impact?		✓	- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective as no existing tree is found within the Sites and adverse impact on significant landscape

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				resources from the proposed developments is not anticipated.  - Since there is not adequate space for meaningful landscaping within the Sites to benefit the public realm, the condition for submission and implementation of landscaping proposal is not recommended.
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) 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) Director of Agriculture, Fisheries and Conservation;
- (g) Director of Fire Services;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Director of Electrical and Mechanical Services.

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

- (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 14.12.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received objecting to the applications on the grounds that the Sites are situated close to the Lam Kam Piggling Station and surrounded by agricultural land

and government, institution or community facilities.

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

- 11.1 The Sites fall within an area partly zoned “V” and partly zoned “AGR” (**Plan A-2a**). The proposed Small House developments are 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. Nevertheless, DAFC has no strong view against the applications from agricultural development point of view as the Sites are surrounded by existing structures and the potential for agricultural rehabilitation is low.
- 11.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Hang Ha Po, San Uk Pai and Kau Liu Ha is 36 while 10-year Small House demand forecast for the same villages is 178. Based on the latest estimate by the Planning Department, about 3.89 ha of land (equivalent to about 155 Small House sites) are available within the concerned “V” zones. As more than 50% of the proposed Small House footprints fall within the “V” zone, DLO/TP, LandsD has no objection to the applications.
- 11.3 The Sites, situated at the fringe of village proper and surrounded by existing village houses (**Plan A-2a**), are generally flat and partly occupied by construction materials (**Plan A-4**). The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character with village houses, abandoned agricultural land and tree groups (**Plans A-2a and A-3**). CTP/UD&L, PlanD advises that no tree was found within the Sites and he has no objection to the applications from landscape planning point of view as adverse impact on significant landscape resources due to the proposed Small House developments is not anticipated.
- 11.4 The Sites are within the upper indirect WGG. CE/MN, DSD advises that the Sites are able to be connected to the public sewerage system in the area (**Plan A-2a**). The applicants have proposed to connect the proposed Small Houses to the existing public sewerage system (**Plan A-2a, Drawings A-1 and A-2**). Both DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost and adequate space within the Sites will be reserved for connection. Nonetheless, CE/MN of DSD does not support the applications as the footprints of the proposed Small Houses are located less than 3m from the stream course (**Plan A-2a**) and might be eroded and flooded. There might be flooding susceptibility of the adjoining areas affected by the proposed developments. Besides, DEP advises that, in view of the close proximity to the water courses nearby, if the applications are approved, the applicants should follow ‘*Professional Persons Environmental Consultative Committee Practice Note (ProPECC PN) 1/94 Construction Site Drainage*’ to properly handle and dispose of site discharge during construction phase. Other relevant Government departments including C for T, CHE/NTE of HyD, H(GEO) and PM(N) of CEDD and D of FS have no objection to or adverse



comment on the applications.

- 11.5 Regarding the Interim Criteria (**Appendix II**), although more than 50% of the proposed Small House footprints fall within the “V” zone and the proposed developments located within WGG would be able to be connected to the public sewerage system (**Plan A-2a**), the proposed developments would cause adverse drainage impact to the surrounding areas in view of their close proximity to the stream course. Besides, while land available within the “V” zone (about 3.89 ha or equivalent to about 155 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 36 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 developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.6 As shown on **Plan A-2a**, there are seven similar applications for Small House development in close vicinity of the Sites within the same “AGR” zone. Three of them (Applications No. A/NE-LT/277, 293 and 351) were rejected from 2002 to 2005 mainly because the proposed development was not able to be connected to the existing or planned public sewerage system and there was no/insufficient information in the submission to demonstrate that the proposed development would not cause adverse impact on the water quality in the area. For the approved applications (No. A/NE-LT/359, 367 and 447), they were approved between 2006 and 2012 mainly on the grounds of complying with the Interim Criteria in that more than 50% of the Small House footprint was within the ‘VE’/”V” zone; and the proposed development was able to be connected to the planned public sewerage system; 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. For Application No. A/NE-LT/537, it was approved by the Committee in October 2015 mainly on sympathetic consideration as the site was surrounded by existing village houses and sandwiched between the boundary of the “V” zone and the ‘VE’ limit of San Uk Pai. The circumstances of the current applications are not similar to the above rejected or approved similar cases.
- 11.7 Regarding the public comment objecting to the applications on the grounds that the Sites are situated close to the Lam Kam Pigging Station and surrounded by agricultural land and government, institution or community facilities, 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 applications 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 there is no information in the submission to demonstrate that the proposed development would not have adverse drainage impact on the surrounding area; and
- (c) land is still available within the “V” zone of Hang Ha Po, San Uk Pai and Kau Liu Ha 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.

11.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 1.2.2023, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) 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
- (c) 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 for each of the permissions are attached at **Appendix VI**.

**12. Decision Sought**

- 12.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 12.2 Should the Committee decide to approve the applications, Members are invited to consider the approval conditions and advisory clauses to be attached to the permissions, and the date when the validity of the permissions should expire.
- 12.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

**13. Attachments**

- Appendix Ia Application forms and attachment received on 4.12.2018 (A/NE-LT/659)
- Appendix Ib Application forms and attachment received on 4.12.2018 (A/NE-LT/660)
- Appendix Ic Further information received on 20.12.2018
- 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 Layout plan and sewerage connection proposal submitted by the applicant (A/NE-LT/659)
- Drawing A-2 Layout plan and sewerage connection proposal submitted by the applicant (A/NE-LT/660)
- 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