

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/675

<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>	“Agriculture” (“AGR”) (about 78%) and “Village Type Development” (“V”) (about 22%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager (IV) of Tai Om as confirmed by the respective Indigenous Inhabitant Representative (IIR)¹, 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 is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

Total floor area	:	181.2m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	60.4m 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. The uncovered

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

area of the Site would be used for garden purpose.

- 1.4 The Site is the subject of a previous application (No. A/NE-LT/648) submitted by the same applicant for the same use, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 21.9.2018. Compared with the previous application, the proposed Small House footprint has been reduced in area and disposition of the proposed Small House has been shifted towards the “V” zone.
- 1.5 In support of the application, the applicant has submitted an application form with attachment (**Appendix I**) on 20.8.2019.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as stated in Appendix G 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 of Tai Om 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 adjoining 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 on 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 the 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/648) for proposed Small House submitted by the same applicant, which was rejected by the Committee on 21.9.2018 mainly for the reasons of being not in line with the planning intention of the “AGR” zone; and land being still available within the “V” zone of the concerned villages for Small House development.
- 5.2 Compared with the previous application, the proposed Small House footprint has been reduced from 65.03m² to 60.4m² (-4.63m² or -7.1%) and the Small House has been shifted towards the “V” zone so that the percentage of the Small House footprint falling within “V” zone has been increased from 26% to 50%.
- 5.3 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 seven similar applications for Small House development within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Out of these applications, five were approved and two were rejected.
- 6.2 Application No. A/NE-LT/258 was approved with conditions by the Committee before criterion (i) of the Interim Criteria came into effect on 23.8.2002. Another 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 Small House footprint 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.
- 6.3 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. 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 was available in the vicinity for connection.
- 6.4 Application No. A/NE-LT/343 was rejected by the Board upon review in 2005 mainly on the grounds of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside of “V” zone of

concerned village and 'VE' of any recognised village. Subsequently, 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 was approved by the Committee in 2010.

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) hard-paved and occupied by a temporary structure for domestic use;
- (b) located at the southwestern fringe of Tai Om Village and adjoining a stream course to the west; 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 northeast 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site 	<p>50%</p> <p>22%</p>	<p>50%</p> <p>78%</p>	<ul style="list-style-type: none"> - The remaining portions of the Site and the Small House footprint fall within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - The Site and the Small House footprint fall entirely within the ‘VE’ of Tai Om. - The District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Tai Om and Ping Long: about 7.9 ha (equivalent to 316 Small House sites). The outstanding Small House applications are 36² while the 10-year Small House demand forecast for the same villages is 280. <p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 5.11 ha (equivalent to 204 Small House sites) (Plan A-2b).
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<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.	<p>Compatible with surrounding area/ development?</p>	✓		<ul style="list-style-type: none"> - The surrounding area is predominantly rural in character occupied by farmland, village houses and woodland.

² Among the 36 outstanding Small House applications, 26 of them fall within the “V” zone and 10 straddle or outside the “V” zone. For those 10 applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within 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 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)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?		✓	<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has no in-principle objection to the application.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - 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?	✓		<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 public sewer (Plan A-2a) and sewer connection is feasible and capacity is available for the proposed Small House development.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 planning point of view as the Site is hard paved with a temporary structure and adverse impact to significant landscape resources from the proposed development is not anticipated.
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 V**.

- (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) Director of Agriculture, Fisheries and Conservation;
- (g) Director of Fire Services; and
- (h) Chief Engineer/Construction, Water Supplies Department.

9.3 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (North), Civil Engineering and Development Department;
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer/Tai Po, Home Affairs Department.

10. **Public Comments Received During Statutory Publication Period (Appendix VI)**

On 27.8.2019, the application was published for public inspection. During the statutory public inspection period, three public comments were received from the Hong Kong Bird Watching Society and two individuals objecting to the application

mainly on the grounds of being not in line with the planning intention of “AGR” zone; adverse ecological impact; setting of undesirable precedent; the applicant is not an indigenous villager; and the commenter has lived at the temporary structure on the Site for over 20 years.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site mainly zoned “AGR” (about 78%) and partly zoned “V” (about 22%) on the OZP. 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 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. DAFC has no strong view on the application as the Site is occupied by an existing structure and possesses low potential for agricultural rehabilitation, and he advises that, if the application is approved, the applicant should be advised to exercise due care to avoid adverse impacts to the stream at the west of the Site.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Tai Om and Ping Long is 36 while the 10-year Small House demand forecast for the same villages is 280. Based on the latest estimate by the Planning Department, about 5.11 ha of land (equivalent to 204 Small House sites) are available within the “V” zone concerned. As the proposed Small House footprint falls entirely within the ‘VE’ of Tai Om, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the southwestern fringe of Tai Om Village, is hard paved and occupied by a temporary structure for domestic purpose. There are village houses situated to the north and northeast 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 woodland, abandoned farmlands, temporary structures and village houses (**Plans A-2a and 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 to significant landscape resources arising from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at Tai Om, which is located near the Site (**Plan A-2a**). 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. As the Site is situated next to a river and a watercourse, 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. Other relevant Government departments including C for T, CE/MN 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**), more than 50% of the proposed Small House footprint falls within the 'VE' of Tai Om and the proposed development located within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 316 Small Houses, such available land (about 5.11 ha or equivalent to 204 Small House sites) is capable to meet the 36 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. 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 within the same "AGR" zone in the vicinity of the Site. Of the two rejected cases, Application No. A/NE-LT/292 was rejected by the Board upon review in 2003 mainly on the grounds of not being able to be connected to the planned sewerage system in the area, whereas Application No. A/NE-LT/343 was rejected by the Board upon review in 2005 mainly on the grounds of not complying with the Interim Criteria in that more than 50% of the Small House footprint fell outside "V" zone and 'VE'. For the remaining five cases, Application No. A/NE-LT/258 was approved in 2001 before the incorporation of criterion (i) on sewerage connection requirement into the Interim Criteria. The other four applications (No. A/NE-LT/361, 392, 404 and 504) were approved between 2006 and 2014 before the Board's adoption of a more cautious approach in 2015 mainly on the grounds of complying with the Interim Criteria in that more than 50% of the Small House footprint fell within the 'VE' or "V" zone; having 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. The planning circumstances of the current application are different from the above similar applications.
- 11.7 The applicant argues that there are similar approved applications (No. A/NE-LT/184, 185, 208, 392 and 504) for Small House development in the "AGR" zone. As shown on **Plan A-1**, Applications No. A/NE-LT/184, 185 and 208 were approved by the Committee in 1999 before the first promulgation of the Interim Criteria in 2000, mainly for the reasons that the proposed Small House was close to the "V" zone of Tai Om/Ping Long Village; fell within the 'VE' of Tai Om Village; would not have significant adverse impact on the environment, traffic and drainage conditions of the area; and land available within the "V" zone could not fully meet the future Small House demand at the time of consideration. For Applications No. A/NE-LT/392 and 504, they were approved in 2009 and 2014 respectively as mentioned in paragraph 11.6 above. It should be noted that the current application will be assessed in accordance with the prevailing Interim Criteria as detailed in paragraph 11.5

above.

- 11.8 Regarding the public comments objecting to the application as detailed in paragraph 10 above, 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 comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("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 infrastructures and services.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.10.2023, 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 are attached at **Appendix VII**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application form and attachment received on 20.8.2019
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in 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	Public comments
Appendix VII	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
OCTOBER 2019**