

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/676

<u>Applicant</u>	Mr. CHUNG Kwong Sang
<u>Site</u>	Lot 1406 S.B in D.D. 8, Ping Long, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 131.1m 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 66%) “Village Type Development” (“V”) (about 34%)
<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 of Ping Long¹, 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 within 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 | : | 156.0m ² |
| No. of storeys | : | 3 |
| Building height | : | 8.23m |
| Roofed over area | : | 52.0m ² |
- 1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively. The uncovered area of the Site would be used for sitting-out purpose.

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.

- 1.4 The Site is the subject of a previous application (No. A/NE-LT/428) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 2.9.2011. However, that planning permission lapsed on 3.9.2019. Compared with the previous application, the proposed Small House footprint and site area have been reduced.
- 1.5 In support of the application, the applicant has submitted an application form with attachments on 23.8.2019 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are provided in Appendix G of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager of Ping Long;
- (b) more than 55% of the Small House footprint falls within the “V” zone and entirely within the village ‘environs’ (‘VE’) of Ping Long;
- (c) in view of the limited land supply and high demand for Small House within the “V” zone of Ping Long, it is nearly impossible for the applicant to purchase land with Small House footprint entirely within “V” zone;
- (d) the proposed Small House is considered compatible with the adjoining rural environment and not visually intrusive to the surroundings;
- (e) no ditch or stream course is found within 30m of the Site;
- (f) as Small House grant has yet to be granted by DLO/TP, LandsD, the applicant could not comply with the approval conditions stipulated under the approved s.16 application and could not commence the Small House within the validity period; and
- (g) planning permission had been given under Application No. A/NE-LT/428 in 2011 and extension of the validity period of the planning permission had also been approved up to 2.9.2019. As the permission cannot be further extended, the applicant submits a fresh planning application for the Board’s consideration.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. Previous Application

5.1 The Site is the subject of a previous application (No. A/NE-LT/428) for proposed Small House submitted by the same applicant, which was approved with conditions by the Committee on 2.9.2011 mainly on the considerations of being in compliance with the Interim Criteria in that more than 50% of the Small House footprint fell within the “V” zone and ‘VE’ of Ping Long Village; there was a general shortage of land in meeting the Small House demand at the time of consideration; and the proposed Small House would be able to be connected to the planned sewerage system in the area. The planning permission has been extended once for four years and subsequently lapsed on 3.9.2019. Compared with the previous application (No. A/NE-LT/428), the site area under the current application is reduced from 150.74m² to 131.1m² (-19.64m² or -13%) and the Small House footprint is also reduced from 65.03m² to 52m² (-13.03m² or -20%).

5.2 Details of the above previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

6. Similar Applications

6.1 There are 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 Among the five approved applications, two of them (No. A/NE-LT/247 and 256) were approved with conditions by the Committee before the criterion (i) of the Interim Criteria came into effect on 23.8.2002. Application No. A/NE-LT/473 was approved with conditions by the Committee in 2013 mainly on the grounds of being in compliance with the Interim Criteria in that more than 50% of the Small House footprint fell within the ‘VE’; there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at the time of consideration; and the proposed development was able to be connected to the planned sewerage system in the area. The remaining two applications (No. A/NE-LT/595 and 598) were approved with conditions in 2016 and 2017 under special circumstances of being an infill development despite there was no general shortage of land for Small House development within the “V” zone at the time of consideration.

- 6.3 For the two rejected applications (No. A/NE-LT/415 and 427), they were rejected by the Committee in 2011 mainly for the reasons of not being in line with the planning intention of “AGR” zone; not complying with the Interim Criteria in that the proposed Small House footprint entirely fell outside both the “V” zone and ‘VE’; the proposed development was not able to be connected to existing or planned sewerage system; and the applicant failed to demonstrate that the proposed development would not cause water pollution to the surrounding area.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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) partly occupied with temporary structures and partly vacant with grasses and trees; and
 - (b) located at the eastern fringe of Ping Long Village.
- 7.2 The surrounding areas are predominantly rural in character comprising scattered tree groups, and active/abandoned farmlands. Village cluster of Ping Long is found to the north, west and south of the Site.

8. Planning Intentions

- 8.1 The planning intention of the “V” zone is to reflect existing recognized 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 proposed Small House - Application site 	<p>58%</p> <p>34%</p>	<p>42%</p> <p>66%</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 proposed Small House - Application site 	<p>100%</p> <p>72%</p>	<p>-</p> <p>28%</p>	<ul style="list-style-type: none"> - The Small House footprint falls entirely within the ‘VE’ of Ping Long. - 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 Ping Long and Tai Om: 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) does not support the application as there are active agricultural activities in the vicinity; agricultural infrastructure such as footpath and water source is available; and the Site possesses potential for agricultural rehabilitation.

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>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character occupied by scattered tree groups, active and abandoned farmlands and village houses.
6.	Within WGG?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House is able to be connected to the existing public sewerage system. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no comment on 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 in-principle 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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				applicant has proposed to connect the Small House to the existing public sewerage at Ping Long (Plan A-2a), and sewer connection is feasible and capacity is available.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as the proposed layout is not in direct conflict with the existing trees and significant adverse impact arising from the proposed development on landscape resources 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) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Director of Agriculture, Fisheries and Conservation; and
- (h) Director of Fire Services.

9.3 The following Government departments have no adverse 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 Comment Received During Statutory Publication Period

On 30.8.2019, the application was published for public inspection. During the statutory public inspection period, one public comment was received from Designing Hong Kong Limited (**Appendix VI**) objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; land being still available to meet the future Small House demand; and setting of an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site mainly zoned “AGR” (about 66%) and partly zoned “V” (about 34%) 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as footpath and water source is available; and the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Ping Long and Tai Om 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 Ping Long, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the eastern fringe of Ping Long Village, is partly occupied with temporary structures and partly vacant with grasses and trees. The proposed development is not incompatible with the surrounding area which is predominantly rural in character comprising scattered tree groups, active and abandoned farmlands and village houses (**Plans A-2a** and **A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as the proposed layout of the Small House development is not in direct conflict with the existing trees and significant adverse impact on 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 existing public sewer at Ping Long, 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. 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 Ping Long and the proposed development located within WGG would be able to be connected to 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 developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is the subject of a previous application (No. A/NE-LT/428) for Small House development submitted by the same applicant, which was approved by the Committee in 2011. Compared with the previous approved application (No. A/NE-LT/428), the site area and the proposed Small House footprint have been slightly reduced. Moreover, as advised by DLO/TP of LandsD, the Small House grant application submitted by the applicant is still under processing. Hence, sympathetic consideration could be given to the current application.
- 11.6 As shown on **Plan A-2a**, there are three similar applications (No. A/NE-LT/247, 427 and 595) for Small House development within the same "AGR" zone in close vicinity of the Site. Of the two approved cases, Application No. A/NE-LT/247 was approved in 2001 before the Board's adoption of a more cautious approach in approving applications for Small House development, whereas Application No. A/NE-LT/595 was approved in 2016 mainly under special circumstances as it was considered as an infill development. For the rejected case (Application No. A/NE-LT/427), it was rejected in 2011 mainly on the grounds of not complying with the Interim Criteria in that the proposed Small House footprint fell entirely outside both the "V" zone and 'VE'; and the proposed development was not able to be connected to existing or planned sewerage system. The planning circumstances of the current application are different from the above similar applications.
- 11.7 Regarding the public comment objecting to the application on the grounds as detailed in paragraph 10, 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 has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.10.2023, 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:
- (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 Ping Long and Tai Om 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.

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 23.8.2019
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 comment
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**