

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

**APPLICATION NO. A/NE-LT/677**

<b><u>Applicant</u></b>	Mr. KOO Wai Hong
<b><u>Site</u></b>	Lot 739 S.J. in D.D. 10, Ng Tung Chai, Lam Tsuen, Tai Po, New Territories
<b><u>Site Area</u></b>	About 294m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural purpose)
<b><u>Plan</u></b>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<b><u>Zonings</u></b>	“Agriculture” (“AGR”) (about 99%) “Village Type Development” (“V”) (about 1%)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager (IV) of Ng Tung Chai as confirmed by the respective Indigenous Inhabitant Representative (IIR)<sup>1</sup>, 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)’ within 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	:	195.09m <sup>2</sup>
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**. The open area of the Site would be used for landscaping purpose.

---

<sup>1</sup> 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/350) 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 23.12.2005. However, that planning permission lapsed on 24.12.2009.
- 1.5 In support of the application, the applicant has submitted an application form with attachments on 27.8.2019 (**Appendix I**).

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are provided in Part 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the proposed Small House has previously been approved under Application No. A/NE-LT/350 submitted by the same applicant;
- (b) the applicant apologises for his oversight to apply for extension of time in 2009 for commencement of the approved Small House since he has been distracted from personal issues and has been waiting for the completion of public sewerage network in the village in the past ten years as connection of the proposed house to public sewers is one of the approval conditions under Application No. A/NE-LT/350. Finally, the public sewerage system in his village has been completed in 2017. However, the applicant only realised that the planning permission granted under Application No. A/NE-LT/350 became invalid when he approached DLO/TP, and he was informed the need to submit a fresh application to the Board for its consideration; and
- (c) the applicant states that he has liaised with the Drainage Services Department and the affected lot owners in the past years regarding the alignment of the public sewerage pipes. According to the applicant, the proposed Small House can be connected to the recently completed public sewerage system in the vicinity of the Site and consent from the affected lot owner has also been obtained. He will appoint relevant consultant to follow up the compliance of approval condition on sewerage connection once the application is approved by the Board.

## **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/350) for proposed Small House submitted by the same applicant, which was approved with conditions by the Committee on 23.12.2005 mainly on the considerations of being in compliance with the Interim Criteria in that the application site is located within the village 'environs' ('VE'); 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 public sewerage system in the area. The planning permission subsequently lapsed on 24.12.2009. Compared with the previous application (No. A/NE-LT/350), there is no change in major development parameters except the disposition of the proposed Small House.
- 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 eight 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, two were approved and six were rejected.
- 6.2 Applications No. A/NE-LT/395 and 399 covering the same site were rejected by the Committee in 2009 mainly on the grounds of being not in line with the planning intention of "AGR" zone; and not in compliance with the Interim Criteria in that there was no general shortage of land in the "V" zone for Small House development at the time of consideration. Subsequently, Application No. A/NE-LT/400 for the same site was approved by the Board on review in 2010 mainly because there was a general shortage of land in the "V" zone for Small House development as a revised 10-year demand forecast was provided by the IIR to LandsD at that time.
- 6.3 Application No. A/NE-LT/499 was approved with conditions by the Committee in 2014 mainly on the grounds of being in compliance with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the 'VE' of Ng Tung Chai; there was a general shortage of land in meeting the demand for Small House development at the time of consideration; and the proposed development located within WGG was able to be connected to the planned sewerage system in the area.
- 6.4 For the remaining four applications (No. A/NE-LT/471<sup>2</sup>, 543, 579 and 594), they were rejected by the Committee/ the Board on review/ the Town Planning

---

<sup>2</sup> Application No. A/NE-LT/471 was dismissed by the Town Planning Appeal Board on 10.8.2016 for the same reasons under the s.17 application rejected by the Board on review on 23.1.2015.

Appeal Board between 2015 and 2017 mainly on the grounds of being not in line with the planning intention of “AGR” zone; not in compliance with the Interim Criteria in that there was no general shortage of land in the “V” zone for Small House development at the time of consideration; and/or land being still available within the “V” zone for Small House development. Applications No. A/NE-LT/543 and 594 were also rejected as the sites located within WGG were not able to be connected to public sewers in the area.

6.5 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 Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)**

7.1 The Site is:

- (a) generally flat, vacant and covered by grasses and groundcovers;
- (b) entirely within the ‘VE’ of Ng Tung Chai; and
- (c) accessible by footpath.

7.2 The surrounding areas are predominantly rural in character with a mix of active/fallow agricultural land and some village houses. The village cluster of Ng Tung Chai is situated to the southwest of the Site. Lam Tsuen River flowing from south to north is to the east of the Site.

**8. Planning Intention**

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"> <li>- Footprint of the proposed Small House</li> <li>- Application site</li> </ul>	-  1%	100%  99%	- The Small House footprint and remaining portion of the Site fall within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- Footprint of the proposed Small House</li> <li>- Application site</li> </ul>	100%  100%	-  -	<ul style="list-style-type: none"> <li>- The Site and the Small House footprint fall entirely within the ‘VE’ of Ng Tung Chai.</li> <li>- The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.</li> </ul>
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"> <li>- Land required to meet Small House demand in Ng Tung Chai: about 1.7 ha (equivalent to 68 Small House sites). The outstanding Small House applications are 10<sup>3</sup> while the 10-year Small House demand forecast for the same village is 58.</li> </ul>
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet Small House demand within the “V” zone of the village concerned: about 1.67 ha (equivalent to 66 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<ul style="list-style-type: none"> <li>- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as there are active agricultural activities in the vicinity; agricultural infrastructures such as footpath and water source is available; and the Site possesses potential for agricultural rehabilitation.</li> </ul>

<sup>3</sup> Among the 10 outstanding Small House applications, 6 of them fall within the “V” zone and 4 straddle or outside the “V” zone. For those 4 applications straddling or being outside the “V” zone, none of them has obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character with a mix of active/fallow agricultural land and some 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 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)?		✓	- 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 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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				to the application as the applicant has proposed to connect the proposed Small House to the public sewerage at Ng Tung Chai ( <b>Plan A-2a</b> ) which has available capacity for the proposed Small House development.
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 no tree is found within the Site and significant adverse impact to landscape resources is not anticipated.
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 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 Comments Received During Statutory Publication Period**

On 3.9.2019, the application was published for public inspection. During the statutory public inspection period, two public comments were received from Designing Hong Kong Limited and an individual (**Appendix VI**) objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; loss of agricultural land; land being still available within the “V” zone at Ng Tung Chai for Small House development; and setting of undesirable precedent.

**11. Planning Considerations and Assessments**

11.1 The application is for a proposed Small House development at the Site largely zoned “AGR” (about 99%) with a very minor portion zoned “V” (about 1%) 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. 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 record, the total number of outstanding Small House applications for Ng Tung Chai is 10 while the 10-year Small House demand forecast is 58. Based on the latest estimate by the Planning Department, about 1.67 ha of land (equivalent to 66 Small House sites) are available within the “V” zone concerned (**Plan A-2b**). As more than 50% of the proposed Small House footprint falls within the ‘VE’ of Ng Tung Chai, DLO/TP of LandsD has no objection to the application.

11.3 The Site, located at the north-eastern fringe of Ng Tung Chai, is currently vacant, generally flat and covered with grasses and groundcovers. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of active/fallow agricultural land and some village houses (**Plans A-2a and A-4**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as no tree is found within the Site 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 Ng Tung Chai, which was recently completed in 2017 (**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 Ng Tung Chai 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 68 Small Houses, such available land (about 1.67 ha or equivalent to 66 Small House sites) is capable to meet the 10 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/350) for Small House development submitted by the same applicant, which was approved by the Committee in 2005. Compared with the previous approved application (No. A/NE-LT/350), there is no change in major development parameters except the disposition of the proposed Small House. 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 six similar applications for Small House development within the same “AGR” zone in close vicinity of the Site. Application No. A/NE-LT/499 was approved in 2014 before the Board’s adoption of a more cautious approach in approving applications for Small House development. Applications No. A/NE-LT/395 and 399 were rejected in 2009 mainly for the reasons of not complying with the Interim Criteria in that there was no general shortage of land in meeting the Small House demand at the time of consideration. Subsequently, Application No. A/NE-LT/400 for the same site was approved by the Board on review in 2010 mainly on the grounds that there was a general shortage of land in the “V” zone for Small House development in view of the revised 10-year demand forecast from the IIR. For the remaining two applications (No. A/NE-LT/471 and 579), they were rejected by the Board on review/the Town Planning Appeal Board in 2016 and 2017 mainly for the reasons of not complying with the Interim Criteria in that there was no general shortage of land in meeting the Small House demand and land was still available within the “V” zone for Small House development. The planning circumstances of the current application are different from the above similar applications.
- 11.7 Regarding the public comments 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 comments 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 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 Members' 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 Ng Tung Chai 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 27.8.2019
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 and 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**