

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

**APPLICATION NO. A/NE-TKL/637**

- Applicant** : Mr. TSANG Tung On represented by Glister Engineering Consultants Company
- Site** : Lot 4 RP in D.D. 46, Tai Tong Wu Village, Ta Kwu Ling, New Territories
- Site Area** : 205 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who is an indigenous villager of Lai Chi Wo Village in Sha Tau Kok Heung<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Tai Tong Wu Village (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘House (NTEH only)’ in “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	:	195.09 m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m <sup>2</sup>

Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden area.

1.3 The Site is the subject of two previously approved applications (No. A/NE-TKL/358 and 503) for a Small House development. The last application (No. A/NE-TKL/503) submitted by the same applicant was approved with conditions by the Committee on 27.3.2015. The planning permission lapsed on 28.3.2019. Compared with the previous application, major

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Lai Chi Wo village of Sha Tau Kok Heung. His eligibility for Small House concessionary grant has yet to be ascertained.

development parameters including the layout of the proposed Small House under the current application remain unchanged.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 9.3.2020.

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

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

- (a) the applicant is the registered owner of the Site and an indigenous villager entitled to a Small House grant in accordance with the Small House Policy;
- (b) the proposed Small House is compatible with the surrounding environment and land use;
- (c) the Site falls entirely within the ‘Village Environ’ (‘VE’) of the Ta Tong Wu Village; and
- (d) there are some similar cases approved in the vicinity of the Site.

## **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 New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

## **5. Previous Application**

- 5.1 The Site is the subject of two previous planning applications No. A/NE-TKL/358 and 503 for the development of a Small House (**Plan A-1**). Planning application No. A/NE-TKL/358 submitted by a different applicant was approved with conditions by the Committee on 6.5.2011 mainly on considerations that the application generally met the Interim Criteria; the proposed development was not incompatible with the surrounding village setting; and the proposed development was not expected to have significant adverse impacts to the surrounding area. The proposed development has not commenced and its planning permission lapsed on 7.5.2015.
- 5.2 The last planning application No. A/NE-TKL/503 submitted by the same applicant as the current application was approved by the Committee on 27.3.2015 mainly on the grounds that the application generally complied with the Interim Criteria in that there was a general shortage of land within the “V” zone at the time of consideration; the proposed development was not incompatible with the surrounding area; and the proposed development was not expected to have significant adverse impacts on the surrounding area. The planning permission lapsed on 28.3.2019. Compared with the previous

application, major development parameters including the layout of the proposed Small House under the current application remain unchanged.

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

## 6. **Similar Applications**

- 6.1 There are 15 similar applications for Small House development within / partly within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 All applications were approved with conditions by the Committee between May 2002 and May 2014 mainly on the considerations that the applications generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the ‘VE’ and there was a general shortage of land within the “V” zone of Tai Tong Wu at the time of consideration; the proposed Small House developments were not incompatible with the adjacent village setting and surrounding rural environment; the proposed developments were not expected to have significant adverse traffic, drainage, environmental and / or landscape impacts on the surrounding area; and similar applications were approved by the Committee.
- 6.3 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

## 7. **The Site and Its Surrounding Areas** (Plans A-1, A-2a to A-2d, and aerial photo on Plan A-3 and site photo on Plan A-4)

- 7.1 The Site is:

- (a) currently used for parking of vehicles (**Plan A-4**);
- (b) located to the southwest of the village proper of Tai Tong Wu (**Plan A-2a**); and
- (c) accessible via a local track from Sha Tau Kok Road-Ma Mei Ha.

- 7.2 The surrounding areas have the following characteristics:

- (a) the Site is surrounded by existing village houses and situated in an area of rural landscape character;
- (b) to the north and northeast of the Site are car parks and a playground (**Plan A-2**);
- (c) to the southwest are village houses cluster and to its further southwest is the channelized section of Ng Tung River (**Plan A-1**); and
- (d) there are a number of approved Small House applications in the vicinity of the Site (**Plan A-1**).

## 8. Planning Intention

The planning intention of the “AGR” zone is to primarily 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 summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	-	100%	- The Site and footprint of the proposed Small House falls entirely within the “AGR” zone.
		-	100%	
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100%	-	- DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Tai Tong Wu Village.
		100%	-	
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet the Small House demand in Tai Tong Wu: about 3.4 ha (equivalent to 136 Small House sites). The outstanding Small House applications for Tai Tong Wu Village are 26 <sup>2</sup> while the 10-year Small House demand forecast for the same village cluster is 110.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Tai Tong Wu Village: about 1.39 ha (equivalent to 55 Small House sites) ( <b>Plans A-2b to A-2d</b> ).
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		

<sup>2</sup> Among the 26 outstanding Small House applications in Tai Tong Wu village cluster, 11 of them fall within the “V” zone and 15 straddle or outside the “V” zone. For those 15 applications straddling or outside the “V” zone, none of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?	✓		- Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view against the application as the potential for agricultural rehabilitation is low.
5.	Compatible with surrounding area/ development?	✓		- The proposed development is not incompatible with surrounding setting and environment dominated by village houses.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no objection to the application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) has reservation on the application and advises that Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.  - Notwithstanding the above, the application only involves construction of one Small House. It is considered that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?		✓	- 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.  - The Site is situated in an area of rural inland plains surrounded by many existing village houses. No significant sensitive landscape resource is observed within the Site, hence, significant adverse impact on existing landscape resources arising from the application is not anticipated.  - Since there is no major public frontage along the site boundary, should the TPB approve this application, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
13.	Local objections conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that the Chairman of Sha Tau Kok District Rural Committee, the Resident Representative (RR) of Tai Tong Wu and the Indigenous Inhabitant Representative (IIR) of Tai Tong Wu support the proposal. The North District Council member (NDC) of subject constituency has no comment on the application.

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Detailed comments from Government departments are at **Appendix V**.

- (a) District Lands Officer/North, 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 Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department;
- (h) Director of Agriculture, Fisheries and Conservation; and

- (i) District Officer (North), Home Affairs Department.

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

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

## **10. Public Comments Received During Statutory Publication Period**

On 17.3.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix VI**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Designing Hong Kong Limited objects to the applications mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; land is still available in Tai Tong Wu village; and the setting of undesirable precedent to similar development in the area.

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

- 11.1 The application is for a proposed Small House in an area zoned “AGR” on the Site. 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. Nevertheless, DAFC has no strong view against the application from the agriculture point of view as the Site possesses low potential for agricultural rehabilitation.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Tai Tong Wu village is 26 while the 10-year Small House demand forecast for the same village cluster is 110. According to the latest estimate by PlanD, about 1.39 ha (equivalent to 55 Small House sites) of land are available in the “V” zone of Tai Tong Wu village for Small House development (**Plans A-2b to A-2d**). DLO/N, LandsD advises that the proposed Small House falls entirely within the ‘VE’ of Tai Tong Wu village.
- 11.3 The Site is situated in an area of rural village character in close proximity to the existing village houses. The proposed Small House development is not incompatible with the surrounding environment (**Plans A-2a and A-3**). CTP/UD&L, PlanD has no objection to the application as significant adverse impact arising from the proposed use on existing landscape resources is not anticipated. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development only involves the construction of one Small House, the application could be tolerated. Other Government departments consulted, including HyD, CEDD, FSD, WSD and DSD, have no adverse comment on or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Tai Tong Wu (**Plan A-2a**). While land available within the “V” zone of Tai Tong Wu village is insufficient to fully meet the future Small House demand of 136 Small Houses, it is noted that land (about 1.39 ha or equivalent to 55 Small House sites) is still available within the “V” zone to meet the 26 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. As such, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, it is noted that the Site is the subject of a previously approved planning application (No. A/NE-TKL/503) submitted by the same applicant. According to DLO/N, LandsD, the Small House grant application is still under processing by her department. Besides, the Site is bounded by approved Small Houses to the south, west and north-west, the implementation of which has formed a new village cluster in the locality (**Plan A-2a**). Hence, sympathetic consideration might be given to the current application.

- 11.5 There are 15 similar applications for Small House developments in the vicinity of the Site within the ‘VE’ of Tai Tong Wu village (**Plan A-2a**). All applications were approved with conditions by the Committee between May 2002 and May 2014 mainly on the considerations that the applications generally complied with the Interim Criteria and there was a general shortage of land within the “V” zone of Tai Tong Wu at the time of consideration. Since all similar cases were approved before the adoption of a more cautious approach by the Board, the circumstances of the current application as mentioned in paragraph 11.4 above are not similar to those previously approved applications.
- 11.6 Regarding the adverse public comment objecting to the application, Government departments’ comments and 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 local views conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.1 and 10 respectively, 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 24.4.2024, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services 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 Members' reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is to primarily retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and 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 "V" zone of Tai Tong Wu Village where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for 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 the permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, 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

<b>Appendix I</b>	Application Form with attachments received on 9.3.2020
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous s.16 Applications
<b>Appendix IV</b>	Similar s.16 Applications for Proposed House (NTEH – Small House) within/partly within the "Agriculture" zone in the Ping Che and Ta Kwu Ling Area
<b>Appendix V</b>	Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available within the "V" zone of Tai Tong Wu Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo