

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

**APPLICATION NO. A/NE-TK/642**

<b><u>Applicant</u></b>	Mr. YAU Ting Chu represented by Mr. SO Man Kit
<b><u>Site</u></b>	Lot 1060 S.B in D.D. 23, Po Sam Pai, Tai Po, New Territories
<b><u>Site Area</u></b>	About 130.3m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zonings</u></b>	“Village Type Development” (“V”) (about 48%) “Agriculture” (“AGR”) (about 52%)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, claims to be an indigenous villager of Ng Tung Chai<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 (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “AGR” zone requires planning permission from the Town Planning Board (the Board).

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

Total floor area	:	195.09m <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 sewerage connection proposal are shown on **Drawings A-1** and **A-2** respectively.

1.4 The Site is the subject of a previous application No. A/NE-TK/503 submitted by the same applicant for the same proposed development which was approved by the Rural and New Town Planning Committee (the Committee) on 4.4.2014. The planning permission lapsed on 5.4.2018. Compared with the previous

---

<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.

application, the major development parameters of the proposed Small House are the same.

- 1.5 In support of the application, the applicant has submitted the application form and relevant attachments on 27.4.2018 (**Appendix I**) and further information (FI) on 31.5.2018 and 6.6.2018 (**Appendix Ia**).

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the applicant is an indigenous villager and is eligible to apply for a Small House grant under the current Small House Policy;
- (b) the Site is the only piece of land owned by the applicant;
- (c) more than 50% of the footprint of the proposed Small House falls within the “V” zone;
- (d) the Site has been deserted for more than 15 years and is no longer suitable for cultivation;
- (e) the proposed development does not frustrate the planning intention of the “AGR” zone as the Site has poor arable potential and not more than 50% of the footprint of the proposed Small House is within “AGR” zone;
- (f) the proposed development is compatible in terms of land use, scale, design and layout with the surrounding area and the Small House developments in the vicinity;
- (g) approval of the application would not set a bad precedent case as previous similar applications (No. A/NE-TK/282 and 302) in the vicinity of Po Sam Pai had been approved in 2009-2010;
- (h) non-building area of the Site will be properly landscaped for the use of open space or garden purpose;
- (i) the applicant will employ professional to submit stormwater discharge proposal and sewerage connection for discharging foul water from the proposed Small House; and
- (j) the previous application No. A/NE-TK/503 was approved on 4.4.2014 and valid until 4.4.2018. However, as the Small House grant is still being processed by DLO/TP, the applicant submits this application to seek re-approval from the Board.

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

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

4. **Background**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is the subject of a previous enforcement case (No. E/NE-TK/074) against unauthorised parking of vehicles and storage use (**Plan A-2a**). Upon discontinuance of the unauthorised development, Compliance Notice was issued on 8.8.2017.

5. **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 (WGGs), 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**.

6. **Previous Application**

6.1 The Site is the subject of a previous application No. A/NE-TK/503 submitted by the same applicant for the same use which was approved with conditions by the Committee on 4.4.2014 mainly on the consideration of being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the “V” zone and there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration. Compared with the previous application No. A/NE-TK/503, the major development parameters of the proposed Small House are the same except the change in method for foul water disposal from the use of septic tank and soakaway system to sewerage connection to public sewer.

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

7. **Similar Applications**

7.1 There are fifteen similar applications (No. A/NE-TK/150, 156, 282, 302, 342, 364, 371, 377, 378, 381, 460, 461, 590, 617 and 633) for Small House development within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**). Among which, ten of them were approved and five of them were rejected.

- 7.2 Ten similar applications (No. A/NE-TK/156, 282, 302, 342, 377, 378, 381, 460, 461 and 633) were approved with conditions by the Committee between 2003 and 2018 mainly on the consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘V’ zone and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned villages at the time of consideration. Planning applications No. A/NE-TK/302 and 633 were also approved as previous planning permission had been granted.
- 7.3 Five similar applications (No. A/NE-TK/150, 364, 371, 590 and 617) were rejected by the Committee between 2003 and 2017 mainly on the grounds that the proposed development was not in line with the planning intention of the “AGR” zone; it did not comply with the Interim Criteria in that more than 50% of the Small House footprint was outside the “V” zone and the ‘VE’ of any recognized villages; and/or approval of the application would set an undesirable precedent for other similar applications in the area. Applications No. A/NE-TK/590 and 617 were also rejected as land was still available within the “V” zone of Po Sam Pai and San Tau Kok which is primarily intended for Small House development.
- 7.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

## **8. The Site and Its Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)**

- 8.1 The Site is:
- (a) vacant and hard paved;
  - (b) outside the ‘VE’ of Po Sam Pai and San Tau Kok; and
  - (c) accessible by footpath and local track leading to Ting Kok Road in the south.
- 8.2 The surrounding areas are predominantly rural in character comprising of natural woodland and village houses. Clusters of village houses within the “V” zone are located at the south-east of the Site. A stream is about 25m to the west of the Site.

## **9. Planning Intentions**

- 9.1 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 re-provisioning 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.

9.2 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.

**10. Comments from Relevant Government Departments**

10.1 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 Small House</li> <li>- Application site</li> </ul>	<p>53%</p> <p>48%</p>	<p>47%</p> <p>52%</p>	<ul style="list-style-type: none"> <li>- The remaining portion of the Site and the footprint of the proposed Small House fall within “AGR” zone.</li> </ul>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- Footprint of the Small House</li> <li>- Application site</li> </ul>	<p>-</p> <p>-</p>	<p>100%</p> <p>100%</p>	<ul style="list-style-type: none"> <li>- The Site and the footprint of the proposed Small House fall entirely outside the ‘VE’ of Po Sam Pai and San Tau Kok.</li> <li>- District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application as more than 50% of the footprint of the proposed Small House is within “V” zone.</li> </ul>
3.	<p>Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?</p>		<p>✓</p>	<ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Po Sam Pai and San Tau Kok: about 7.15 ha (or equivalent to 286 Small House sites). The outstanding Small House applications are 62 while the 10-year Small House demand forecast is 224.</li> <li>- Land available to meet Small House demand within the “V” zone of the villages concerned: about 4.31 ha (or equivalent to about 172 Small House sites) (<b>Plan A-2b</b>).</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural development point of view as there are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water supply is available; and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character occupied by natural woodland and village houses.
6.	Within WGG?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?		✓	- Commissioner for Transport (C for T) has no in-principle objection to the application from traffic engineering point of view.
10.	Drainage impact?	✓		- 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> <li>- Director of Environmental Protection (DEP) has no objection to the proposed development as it is small in scale and unlikely to cause major pollution.</li> <li>- He has no adverse comment on the applicant's proposed connection to existing public sewer provided that consents from affected private lots for the laying and future maintenance of the sewers can be obtained.</li> </ul>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning perspective. As no existing trees are found within the Site, adverse impact to landscape resources arising from the proposed development is not anticipated.</li> <li>- Since the footprint of the proposed Small House covers most of the Site, there is inadequate space for landscaping within the Site. Should the application be approved, the standard condition for submission and implementation of landscaping proposal is not recommended.</li> </ul>
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. 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 & Landscape, Planning Department;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Chief Engineer/Mainland North, Drainage Services Department;
- (g) Chief Engineer/Consultants Management, Drainage Services Department;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Director of Fire Services.

10.3 The following Government departments have no objection to/ 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 the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer (Tai Po), Home Affairs Department.

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

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## **12. Planning Considerations and Assessments**

12.1 The Site is partly zoned “AGR” (about 52%) and partly zoned “V” (about 48%). The proposed development is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.

12.2 This is a cross-village Small House application. According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Po Sam Pai and San Tau Kok is 62 while the 10-year Small House demand forecast for the same villages is 224. Based on the latest estimate by the PlanD, about 4.31 ha (or equivalent to about 172 Small House sites) of land are available within the “V” zone of Po Sam Pai and San Tau Kok. As more than 50% of the proposed Small House footprint falls within the “V” zone, DLO/TP has no objection to the application.

12.3 The Site is vacant and hard paved. The proposed development is not incompatible with the surrounding area which is predominantly rural in character comprising of natural woodland 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 no existing trees are found within the Site and adverse landscape impact arising from the proposed development is not



anticipated.

- 12.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘V’ zone (**Plan A-1**). While land available within the “V” zone for Small House development (about 4.31 ha or equivalent to about 172 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 62 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, the Site is the subject of a previous application (No. A/NE-TK/503) submitted by the same applicant for the same development which was approved on 4.4.2014. Compared with the previously approved application No. A/NE-TK/503, the major development parameters of the proposed Small House are the same except the change in method for foul water disposal from the use of septic tank and soakaway system to sewerage connection to public sewer. In this regard, DEP has no adverse comment on the proposed sewerage connection to existing public sewer provided that consents from affected private lots for the laying and future maintenance of the sewers can be obtained. Since there is no significant change in planning circumstances, sympathetic consideration could be given to the current application.
- 12.5 There are six similar applications (No. A/NE-TK/342, 378, 381, 460, 461 and 617) straddling onto both “AGR” and “V” zones and located in the vicinity of the Site. Five of them (No. A/NE-TK/342, 378, 381, 460 and 461) were approved with conditions by the Committee between 2011 and 2013 mainly on the considerations of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘V’ zone; and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned villages at the time of consideration. The remaining application No. A/NE-TK/617 was rejected on 28.7.2017 on the grounds of being not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Po Sam Pai and San Tau Kok. Since the rejected application is not the subject of any previous approval, the planning circumstances of that rejected application are not similar to the current application.
- 12.6 There is no public comment on the application received.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the application.

- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.6.2022, 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; and
- (b) the connection of the foul water drainage system to the public sewers 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 VI**.

- 13.3 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 for the area 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 justification in the current submission for a departure from this planning intention; and
- (b) land is still available within the "V" zone of Po Sam Pai and San Tau Kok 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 a more orderly development pattern, efficient use of land and provision of infrastructure and services.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

**15. Attachments**

Appendix I	Application form and attachments received on 27.4.2018
Appendix Ia	FI received on 31.5.2018 and 6.6.2018
Appendix II	Interim Criteria for Consideration of application for NTEH/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Sewerage connection proposal
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  
JUNE 2018**