

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/657

<u>Applicant</u>	Mr. LEUNG Kin Pan represented by Mr. LEUNG Pak Keung
<u>Site</u>	Lot 671 S.B in D.D. 15 and adjoining Government Land, Shan Liu, Tai Po, New Territories
<u>Site Area</u>	About 59.4 m ² (including 23.7m ² Government land)
<u>Lease</u>	(a) Block Government Lease (demised for agricultural use) (about 60%) (b) Government land (about 40%)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Agriculture” (“AGR”)
<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 villager¹ of Shan Liu, 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, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ use in the “AGR” zone 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	:	142.8m ²
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	47.6m ²

1.3 The uncovered area of the Site is proposed to be used for garden purpose. Layout of the proposed Small House and the sewerage proposal are shown on **Drawings A-1 and A-2**.

¹ As advised by DLO/TP, LandsD, the applicant’s eligibility of Small House grant has yet to be ascertained.

- 1.4 Part of the Site is the subject of a previous application (No. A/NE-TK/483) for the same Small House development submitted by a different applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 17.1.2014. Compared with the previous application, the site area is reduced from 102.1m² to 59.4m² by excluding one private lot and some Government land and the footprint of the proposed Small House is reduced from 65.03m² to 47.6m² with the total floor area reduced correspondingly from 195.09m² to 142.8m².
- 1.5 In support of the application, the applicant has submitted the following documents :
- (a) an application form with attachments **(Appendix I)**
 - (b) further information received on 3.12.2018 providing responses to departmental comments (*accepted and exempted from the publication*) **(Appendix Ia)**
 - (c) further information received on 12.12.2018 providing responses to departmental comments (*accepted and exempted from the publication*) **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in application form and further information at **Appendices I, Ia** and **Ib**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Shan Liu, Tai Po. According to the New Territories Small House Policy implemented by the Lands Department, indigenous villager is entitled to apply for building a Small House;
- (b) the current application site is entirely within the site of the previous approved application No. A/NE-TK/483 . When the previous application was considered by the Board, relevant Government departments advised that there were no adverse landscape, drainage, sewerage connection and fire safety impacts;
- (c) the current application site is smaller than the previous approved application No. A/NE-TK/483 as one private lot was excluded and the Small House footprint is reduced. As there are no increase and no major changes in the development parameters, he hopes the Board could approve the current application and would not impose additional approval conditions;
- (d) if the application is approved by the Board, he would appoint an Authorised Person to design and submit sewerage and drainage proposals to the satisfaction of relevant Government departments;

- (e) the Drainage Services Department (DSD) has provided public sewerage system for Shan Liu. The proposed Small House can be connected to the public sewer passing through private lots and consents from the concerned lot owners have been obtained. The applicant commits to employ professionals to design and submit details of the sewerage connection proposal to DSD in future;
- (f) Shan Liu River is located about 20m to the southwest of the Site. The Site is at the downstream side and the area between the Site and Shan Liu River is a vacant land without structures or trees. The topography of the area will make rain and surface runoff naturally diverted to Shan Liu River. Although there are no public stormwater drains in Shan Liu, there has been no flooding problem in the village; and
- (g) the applicant, in response to the concerns raised by DSD and WSD, has committed to comply with the approval conditions to be imposed by the Board regarding the submission and implementation of drainage and sewerage proposals to the satisfaction of relevant departments.

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. As for the Government land, the “owner’s consent/notification” requirements are not applicable to the application.

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 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 Part of the Site is the subject of a previous application (No. A/NE-TK/483) for proposed Small House development submitted by a different applicant, which was approved with conditions by the Committee on 17.1.2014 mainly on the considerations of being generally 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 in meeting the demand for Small House development in the ‘V’ zone of the concerned village at the time of consideration; it was not incompatible with the surrounding area; and the proposed Small House was able to be connected to the planned sewerage system in the area. Subsequently, the planning permission was extended for three years up to 17.1.2021. Compared with the previous application, the site area is reduced from 102.1m² to 59.4m² by excluding one private lot and some Government land and the

footprint of the proposed Small House is reduced from 65.03m² to 47.6m² with the total floor area reduced correspondingly from 195.09m² to 142.8m².

5.2 Details of the previous application are summarized at **Appendix III**.

6. **Similar Applications**

6.1 There are 41 similar applications within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.

6.2 A total of 26 applications (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 421, 422, 428, 431, 434, 439, 452, 463, 467, 468, 471, 474, 477, 483, 510, 528, 529, 561 and 562) were approved with conditions by the Committee between 2009 and 2015 mainly on the considerations that more than 50% of the proposed Small House footprint fell within the ‘VE’; there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned village; the proposed Small Houses could be connected to the public sewerage system in the area; and/or sympathetic consideration was given as the application sites involved previous approvals.

6.3 The other 15 applications (No. A/NE-TK/167, 183, 272, 288, 318, 329, 357, 388, 390, 410, 414, 462, 509, 525 and 526) were rejected by the Committee or the Board on review between 2003 and 2015 mainly for reasons of being unable to be connected to the public sewerage system in the area; more than 50% of the proposed Small House footprint fell outside the “V” zone/‘VE’; and/or the proposed developments would cause adverse water quality/ landscape/ drainage impacts in the area.

6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2a**.

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

7.1 The Site is:

- (a) vacant and overgrown with weeds;
- (b) within the ‘VE’ of Shan Liu;
- (c) within the lower indirect WGG; and
- (d) accessible by a local track.

7.2 The Site is situated in an area on the upper foothills between Pat Sin Leng Country Park and Ting Kok Village, and surrounded by hills, valleys, woodland, streams and active/fallow agricultural land.

8. Planning Intention

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.	Within “V” zone? - Footprint of the Small House - Application site		100% 100%	- The Small House footprint and the Site fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%		- The Small House footprint and the Site fall entirely within the ‘VE’ of Shan Liu. - District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand: about 6.95 ha (equivalent to 278 Small House sites). The outstanding Small House applications are 28 ² while the 10-year Small House demand forecast is 250.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the “V” zone of the village concerned: about 1.03 ha (or equivalent to 41 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application as there are active agricultural activities in the vicinity and agricultural

² Among the 28 outstanding Small House applications, 12 of them fall within the “V” zone and 16 straddle or outside the “V” zone. For those 16 applications straddling or being outside the “V” zone, 1 of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				infrastructure such as farm access and water source is available, and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are mainly occupied by hills, valleys, woodland, streams and active/fallow agricultural land.
6.	Within WGG?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed house would be able to be connected to the public sewerage system. - Approval conditions on connection to public sewers; submission of water pollution risk and impact assessment; and provision of protective and mitigation 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), in general, has reservation on the application but considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>(CE/MN, DSD) has no in-principle objection to the application but is concerned about possible overflowing from the curtailed watercourse.</p> <ul style="list-style-type: none"> - Approval condition on the submission and implementation of drainage proposal is required to ensure no adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - Director of Environmental Protection (DEP) has no objection to the application provided that the applicant shall connect the proposed house to the existing public sewer with consents from nearby land lot owners in granting access rights for pipe laying and future maintenance works.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective as the Site is vacant with no existing tree and adverse impact on significant landscape resources within the Site is not anticipated. - Since the footprint of the proposed house covers most of the Site, there is inadequate space for landscaping within the Site. Approval condition on submission and implementation of landscape proposal is not recommended.
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) Chief Engineer/Construction, Water Supplies Department;
- (d) Chief Engineer/Mainland North, Drainage Services Department;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Director of Environmental Protection;
- (g) Director of Fire Services;
- (h) Director of Electrical and Mechanical Services; and
- (i) Chief Town Planner/Urban Design and Landscape, Planning Department.

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

- (a) Chief Engineer/Consultants Management, Drainage Services Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;
- (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 30.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within an area zoned “AGR” (**Plan A-2a**). The proposed Small House is not in line with the planning intention of the “AGR” zone which is primarily intended to retain and safeguard good quality agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application as there are active agricultural activities in the vicinity and agricultural infrastructure such as farm access and water source is available, and the Site possesses potential for agricultural rehabilitation.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Shan Liu is 28 while the 10-year Small House demand forecast for the concerned village is 250. Based on the latest estimate by the PlanD, about 1.03 ha (or equivalent to about 41 Small House sites) of land are available within the “V” zone of Shan Liu. As the proposed Small House footprint falls entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site is vacant and overgrown with weeds and surrounded by hills, valleys, woodland, streams and active/fallow agricultural land (**Plan A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as the Site is vacant with no existing tree and adverse impact arising from

the proposed development on significant landscape resources within the Site is not anticipated. C of T has reservation on the application but considers that the application only involves development of a Small House can be tolerated unless it is rejected on other grounds.

- 11.4 The Site is located within the lower indirect WGG and the proposed Small House could be connected to the public sewerage system in the area. The applicant has submitted a sewerage connection proposal and consent letters from owners of the affected private lots (**Drawing A-2** and **Appendix I**). DEP has no objection to the application provided that the applicant shall connect the proposed house to the existing public sewer with consents from nearby land lot owners in granting access rights for pipe laying and future maintenance works. While CE/C of WSD has no objection to the application as the proposed house is able to be connected to public sewer, the applicant is required to conduct a water pollution risk and impact assessment which shall be satisfied by WSD before the commencement of the construction of the proposed Small House to demonstrate no potential loss of water yield, as well as to provide adequate protective and mitigation measures to ensure no pollution or siltation occurs to the WGG. CE/MN of DSD has no in-principle objection to the application but is concerned about possible overflowing from the curtailed watercourse. To address the technical concerns of WSD and DSD, relevant approval conditions are recommended in paragraphs 12.2 (a) to (d) below should the application be approved by the Committee. Other concerned Government departments, including CHE/NTE of HyD, PM/N and Head, GEO of CEDD and D of FS have no objection to/adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint is located within the 'VE' of Shan Liu and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). Whilst land available within the "V" zone (about 1.03 ha or equivalent to 41 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future demand of 278 Small Houses (i.e. 28 outstanding applications plus 250 Small Houses under the 10-year demand forecast), it is capable to meet the 28 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, a major part of the Site is the subject of a previous approval (Application No. A/NE-TK/483), and a number of approved planning applications and approved Small House grant applications are located to its immediate east and to its north (**Plan A-2a**), which has formed a new cluster of Small Houses within the 'VE' limit. Hence, sympathetic consideration may be given to the current application.
- 11.6 There are 41 similar applications within the same "AGR" zone. A total of 15 applications (No. A/NE-TK/167, 183, 272, 288, 318, 329, 357, 388, 390, 410,

414, 462, 509, 525 and 526) were rejected by the Committee or the Board on review between 2003 and 2015 mainly for reasons of being unable to be connected to the public sewerage system in the area; and/or more than 50% of the proposed Small House footprint fell outside the "V" zone/'VE'. The other 26 applications (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 421, 422, 428, 431, 434, 439, 452, 463, 467, 468, 471, 474, 477, 483, 510, 528, 529, 561 and 562) were approved with conditions by the Committee between 2009 and 2015 mainly on the considerations that more than 50% of the proposed Small House footprint fell within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the "V" zone of the concerned village; the proposed Small Houses could be connected to the public sewerage system in the area; and/or sympathetic consideration was given as the application sites involved previous approvals.

- 11.7 There is no public comment received on the application during the statutory public inspection period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 21.12.2022, 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;
- (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;
- (c) the submission of a water pollution risk and impact assessment to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (d) the provision of protective and mitigation 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 VI**.

- 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 current submission for a departure from the planning intention; and
 - (b) land is still available within the "V" zone of Shan Liu which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure 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 dated 23.10.2018
Appendix Ia	Further information received on 3.12.2018
Appendix Ib	Further information received on 12.12.2018
Appendix II	Interim Criteria
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Government departments' detailed comments
Appendix VI	Recommended Advisory Clauses
Drawings A-1 and A-2	Drawings 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

Plan A-3
Plan A-4

development within "V" zone
Aerial photo
Site photos

**PLANNING DEPARTMENT
DECEMBER 2018**