

RNTPC Paper No. A/NE-SSH/127
For Consideration by the
Rural and New Town Planning
Committee on 3.5.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/127

<u>Applicant</u>	Mr. LEE Keng Wai
<u>Site</u>	Lots 1109 S.A ss.1 and 1124 S.A in D.D. 218, Che Ha Village, Shap Sz Heung, Sai Kung North, New Territories
<u>Site Area</u>	77.7m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
<u>Zoning</u>	“Comprehensive Development Area” (“CDA”) Development Restrictions: <i>Maximum Gross Floor Area (GFA)</i> <ul style="list-style-type: none">- 448,576 m² (domestic);- 8,957 m² (residents’ club);- 9,290 m² (commercial facilities including kindergarten/nursery and church) <i>Maximum building height (BH)</i> <p>24 residential storeys over one storey of residential entrance lobby and a maximum 3 levels for ancillary car park, if the residential building is constructed above the car park.</p> <p>Based on individual merits of a development or development proposal, minor relaxation of the GFA/BH restrictions may be considered by the Town Planning Board (the Board) on application</p>
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House) and Minor Relaxation of GFA Restrictions

1. The Proposal

- 1.1 On 6.3.2019, the applicant, who claims himself an indigenous villager of Ping Chau Chau Mei Village with confirmation by the relevant Indigenous Inhabitant Representative (IIR)¹, sought planning permission to build an NTEH (Small House) on the application site (the Site), with minor relaxation of GFA restrictions for the “CDA” zone on the OZP (**Plan A-1**).

¹ The District Lands Officer/Tai Po, Lands Department advised that the applicant’s eligibility of Small House grant has yet to be ascertained.

1.2 Details of the proposed Small House are as follows:

Total floor area (m ²)	: 179.46
No. of storeys	: 3
Building height (m)	: 8.23
Site coverage	: 76.98%

- 1.3 The uncovered area of the Site is proposed for open space use. The proposed septic tank for the Small House will be located at the adjoining Lot 1124 RP in DD218. The owner of Lot 1124 RP has undertaken to give consent to the applicant to construct the septic tank in his lot.
- 1.4 The Site is part of the subject of a previous application for Small House (Application No. A/NE-SSH/96) submitted by a different applicant, which was approved by the Town Planning Board (the Board) on review on 10.4.2015 but lapsed on 11.4.2019.
- 1.5 In support of the application, the applicant has submitted an application form dated 6.3.2019 (**Appendix I**) with attachments including a consent letter of the owner of the adjoining lot (**Appendix Ia**), site location plan, lot index plan and master layout plan (**Drawings A-1 to A-3**).

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 of Ping Chau. It is difficult to build a Small House in Ping Chau as it is within country park area and lacks infrastructure and transportation;
- (b) the applicant bought the land from the former landowner who was granted planning permission for building Small House at the Site. The permission was given on 10.4.2015 and will expire after 10.4.2019;
- (c) the applicant will submit a drainage proposal to the relevant department and will comply with all the approval conditions; and
- (d) no on-site works will be commenced before obtaining approval and relevant Certificates of Exemption from Lands Department.

3. Background of the Comprehensive Development in the “CDA” zone

- 3.1 The “CDA” zone covering the Site comprises three parcels of land near Che Ha, Tseng Tau and Tai Tung Wo Liu Villages, which are identified to be suitable for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities under the OZP.

- 3.2 There have been 12 applications (No. A/DPA/NE-SSH/12, A/NE-SSH/5, 7, 10, 15, 16, 18, 22, 26, 28, 61 and 120) for comprehensive residential, commercial and recreational development with Government, Institution and Community facilities in the “CDA” zone approved between 1995 and 2019. Except applications No. A/NE-SSH/61 and 120, the planning permissions for other 10 applications were lapsed and no longer valid.
- 3.3 Application No. A/NE-SSH/61 was approved with conditions on 8.5.2009, with subsequent Class B amendments (Application No. A/NE-SSH/61-1) approved on 2.12.2009 and extension of validity period until 8.5.2017 (Application No. A/NE-SSH/61-2). The approved scheme comprises 46 residential towers (16-24 storeys) and 32 houses with a total domestic GFA of 448,576m², commercial GFA of 9,290m² and resident’s club GFA of 8,957 m². The building plans for the scheme were approved by the Building Authority in 2016 and 2017, and the land exchange was executed in 2017². The scheme is deemed to have commenced. The approved MLP is at **Plan A-5a**.
- 3.4 The latest application No. A/NE-SSH/120 was approved by the Committee on 18.1.2019, which involved a proposed development of 46 residential towers (16-31 storeys) with a total domestic GFA of 538,213m², commercial GFA of 12,077m² and residents’ club GFA of 13,446m². A minor relaxation of the restrictions on domestic GFA (+20%), commercial GFA (+30%) and residents’ club GFA (+50%) were approved. Furthermore, a 20-metre wide ecological buffer zone is designated on each side of Tai Tung Wo Liu Stream for preservation and enhancement of the ecological value of the stream. The approved MLP is at **Plan A-5b**.
- 3.5 The proposed Small House under this application is located at the fringe of the North Plain Site of the comprehensive development and annotated as “land to be secured by the applicant” under the MLPs (**Plans A-5a and A-5b**). No specific use or development was proposed for the Site. However, it falls within the ecological buffer zone for Tai Tung Wo Liu Stream under Application No. A/NE-SSH/120 (**Plan A-5c**).

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

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

² The Site is not included in the land exchange as it has not been acquired by the applicant of the comprehensive development. According to the approved schemes, a domestic GFA of 12,641m² (under Application No. A/NE-SSH/61) or 15,170m² (under Application No. A/NE-SSH/120) is reserved as ‘Phase 2’ of the comprehensive development to uphold the development right of the owners of private land not yet secured by the applicant of the comprehensive development.

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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

6. **Town Planning Board Guidelines**

The Town Planning Board Guidelines (TPB PG-No. 18A) for 'Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance' are relevant to this application. The major relevant points are summarised in **Appendix III**.

7. **Previous Application**

7.1 Besides the applications for comprehensive development mentioned in paragraph 3 above, the Site is part of the subject of a previous application No. A/NE-SSH/96 for NTEH (Small House) use submitted by a different applicant. The application, involving a larger site area of 96.7m² including 19m² of Government land, was rejected by the Committee on 14.11.2014 for reasons of being not in line with the planning intention of the "CDA" zone as the Government land within the application site would be included in the regrant lot under land exchange for the approved comprehensive development; not complying with the Interim Criteria as there was no general shortage of land in the "V" zone to meet the Small House demand; and the setting of an undesirable precedent for other similar developments to proliferate into the "CDA" zone. It was subsequently approved by the Board on review on 10.4.2015 mainly on sympathetic consideration that the proposed Small House would involve a relatively small area at the fringe of the "CDA" zone, which was not incompatible with the approved comprehensive development and would not have signification impact on the overall implementation of the development.

7.2 Details of this previous application are summarized at **Appendix IV**.

8. **Similar Applications**

8.1 There are two similar applications (No. A/NE-SSH/52 and 97) in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.

8.2 Application No. A/NE-SSH/52 was approved with conditions by the Committee on 3.3.2006 mainly on the consideration that it generally complied with the Interim Criteria; the proposed Small House would not jeopardise the implementation of the comprehensive development as the site was located outside the land exchange boundary; and there was general shortage of land in the "V" zone in meeting the then estimated future demand for Small House development.

- 8.3 Application No. A/NE-SSH/97 was rejected by the Committee on 14.11.2014 for largely the same reasons, i.e. being not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand and setting of an undesirable precedent for other similar developments. The case was subsequently approved by the Board on review on 10.4.2015, based on the same sympathetic consideration as Application No. A/NE-SSH/96.
- 8.4 There is another application for NTEH (Small House) (No. A/NE-SSH/128), covering the same site as Application No. A/NE-SSH/97, which will be considered by the Committee at the same meeting with the current application.
- 8.5 Details of the above applications are summarized at **Appendix V** and their locations are shown on **Plans A-1 and A-2a**.

9. **The Site and its Surrounding Area (Plans A-1 to A-4)**

9.1 The Site is:

- (a) adjacent to the eastern edge of the Che Ha village proper and entirely within the ‘VE’ of Che Ha;
- (b) generally flat, vacant and paved; and
- (c) accessible by a vehicular track leading to Sai Sha Road.

9.2 The surrounding areas are generally rural in nature with village houses and scattered tree groups. A section of Tai Tung Wo Liu Stream runs at about 13 metres from the east of the Site. About 50 metres to the east of the Site is an existing golf driving range.

10. **Planning Intention**

The planning intention of the “CDA” is for comprehensive development of the area for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

11. **Comments from Relevant Government Departments**

- 11.1 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 ? - Footprint of the Small House - Application site	- -	100% 100%	- The Site and the footprint of the proposed Small House falls entirely within "CDA" zone.
2.	Within 'VE'? - Footprint of the Small House - Application site	100% 100%	- -	- The Site falls entirely within the 'VE' of Che Ha. (Plan A-1) - The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand forecast)?	✓		- Land required to meet Small House demand: about 1.15 ha (or equivalent to 46 Small House sites). The outstanding Small House applications for Che Ha are 16 while the 10-year Small House demand forecast for the same village is 30.
	Sufficient land in "V" zone to meet outstanding Small House applications	✓		- Land available to meet Small House demand: 2.18 ha (87 Small House sites).
4.	Compatible with the planning intention of "CDA" zone?		✓	- The planning intention of the "CDA" zone is for comprehensive development of the area for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities.
5.	Compatible with surrounding area/development?	✓		- The Site and the surrounding areas are generally rural in nature with village houses. - The Director of Environmental Protection (DEP) has no comment on the application in view of its small scale. - The Site also encroaches upon the ecological buffer zone of Tai Tung

				<p>Wo Liu Stream, as designated under the approved comprehensive development in the "CDA" zone under Application No. A/NE-SSH/120. The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong views in this regard as the Site has been hard-paved and is subject of previous planning permission for Small House development.</p>
6.	Within WGG?		✓	<p>- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<p>- Director of Fire Services (D of FS) has no objection to the application.</p>
9.	Traffic impact?		✓	<p>- Commissioner for Transport (C for T) has no objection to the application.</p>
10.	Drainage and sewerage impact?		✓	<p>- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection from drainage point of view.</p> <p>- Approval condition on the submission and implementation of drainage proposal is required.</p>
11.	Landscape impact?		✓	<p>- The 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, and advises that approval condition on the submission and implementation of landscaping proposal would not be necessary.</p>

12.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO) of CEDD) has no comment on the application.
13.	Local objections received from DO?		✓	

11.2 Comments from the following Government departments have been incorporated in the above paragraph and **Appendix VI**:

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Environmental Protection;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Director of Fire Services;
- (f) Commissioner for Transport;
- (g) Chief Engineer/Mainland North, Drainage Services Department;
- (h) Chief Engineer/Consultants Management, Drainage Services Department;
- (i) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (j) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (k) Director of Electrical and Mechanical Services.

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

- (a) Project Manager/New Territories East, Civil Engineering and Development Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) District Officer/Tai Po, Home Affairs Department.

12. **Public Comments Received During Statutory Publication Period**

On 15.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.4.2019, five public comments from Che Ha Village Office and four individuals were received (**Appendix VII**). The commenters raised concerns or objection to the application mainly on the grounds that the applicant is not indigenous villager of Che Ha, the proposed development would cause adverse environmental, ecological and noise impact to the surrounding areas, risks to pedestrian's safety during construction, blockage to access to other houses and was not in line with the planning intention.

13. Planning Considerations and Assessments

- 13.1 The Site falls entirely within an area zoned “CDA” which is intended for comprehensive development for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities. The zone is subject to restrictions on development parameters including a maximum domestic GFA of 448,576m². The applicant seeks minor relaxation of that GFA restriction by 179.46m², i.e. from 448,576m² to 448,755.46m² to accommodate the proposed Small House development on the Site.
- 13.2 The “CDA” zone is also the subject of two valid planning permissions for comprehensive development, under Applications No. A/NE-SSH/61 and No. A/NE-SSH/120. The domestic GFA for the approved scheme under Application No. A/NE-SSH/61 is 448,576m² which is the same as the maximum GFA stipulated for the “CDA” zone. For the Application No. A/NE-SSH/120, a minor relaxation of about 20% from the maximum GFA was granted to accommodate a domestic GFA of 538,213m². The proposed Small House under this current application, with a GFA of 179.46m², will increase the overall GFA in the area covered by the approved comprehensive development schemes from 448,576m² to 448,755.46m² (for the scheme under Application No. A/NE-SSH/61) or from 538,213m² to 538,392.46m² (for the scheme under Application No. A/NE-SSH/120).
- 13.3 It is stipulated in the Notes of the OZP that an applicant for permission for development on land designated “CDA” shall prepare a MLP together with technical assessments for the approval of the Board. The applicant under this current application has adopted the approved MLP of Application No. A/NE-SSH/61-1 and incorporated his Site thereon (**Drawing A-3**). However, no technical assessment has been submitted.

Implication on the Approved Comprehensive Development

- 13.4 The Site occupies an area of about 77.7m², which is about 0.01% of the development site area of the approved schemes under Applications No. A/NE-SSH/61 and No. A/NE-SSH/120 (both about 65 ha). It is located at the fringe of the approved schemes and is annotated as “land to be secured by applicant” under the MLP of both schemes. No specific use or development is designated on the Site. Furthermore, it is not included in the regrant lot under the land exchange executed in 2017 for the approved comprehensive development scheme under Application No. A/NE-SSH/61-1. Although it falls within the ecological buffer zone designated for Tai Tung Wo Liu Stream under the Application No. A/NE-SSH/120, DAFC has no strong views against the application as the Site has been hard-paved and is subject of previous planning permission for Small House development. The proposed Small House development will unlikely jeopardise the implementation of the approved comprehensive development.

Land Use Compatibility

- 13.5 The Site is located adjacent to the eastern edge of Che Ha Village proper, and the surrounding areas are generally rural in nature. The part of the approved comprehensive development in the vicinity of the Site is mainly designated for conserved woodlands, landscaped areas and golf driving range (for Application No. A/NE-SSH/120) or landscaped area and golf course (for Application No. A/NE-SSH/61). The proposed Small House under this current application is considered compatible with the character of the surrounding environment. Relevant Government departments consulted including DEP, DAFC, C for T, CE/C of WSD, CE/MN of DSD and CTP/UD&L of PlanD have no in-principle objection nor adverse comments on the application.

Previous and Similar Applications

- 13.6 The Site is part of the subject of planning approval for NTEH (Small House) granted by the Board on review to a different applicant on 10.4.2015 (Application No. A/NE-SSH/96). The application was rejected by the Committee for reasons of being not in line with the planning intention of the “CDA” zone, not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand, and setting of an undesirable precedent for other similar developments to proliferate into the “CDA” zone. It was subsequently approved by the Board on review mainly on sympathetic consideration that the proposed Small House was not incompatible with the approved comprehensive development and would not affect the overall implementation of the development. Nonetheless, that permission has lapsed on 11.4.2019.
- 13.7 According to the Interim Criteria (d) (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the Criteria would normally not be allowed. Sympathetic consideration may be given if there are special circumstances such as the site is an infill site among existing Small Houses or processing of the Small House grant is already at an advance stage. For this current application, no such special circumstances are applicable. It should also be noted that the previous approval was granted to a different applicant. The current applicant acquired the Site in April 2017 after the previous approval was given. His application for Small House grant, submitted to LandsD in May 2017, is still under processing.
- 13.8 There were also two similar applications approved in the vicinity of the Site, namely Applications No. A/NE-SSH/52 and 97 approved on 3.3.2006 and 10.4.2015 respectively. Application No. A/NE-SSH/52 was approved by the Committee in 2006 mainly on the consideration that the application, involving a site with 87% of area falling within the “V” zone, was generally in compliance with the Interim Criteria and there was a general shortage of land in the “V” zone to meet the estimated Small House demand at the time of consideration. In comparison, the application site under this current application falls entirely within the “CDA” zone and there is sufficient land available in the “V” zone to meet the currently estimated Small House demand. Therefore, the planning circumstances of that approved application are not similar to the current application.

- 13.9 As for Application No. A/NE-SSH/97 adjoining the current application site, it was rejected by the Committee on 14.11.2014 for not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand and setting of an undesirable precedent. It was subsequently approved by the Board on review on the same sympathetic consideration as Application No. A/NE-SSH/96. That planning permission, however, has also lapsed on 11.4.2019.

Interim Criteria

- 13.10 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Che Ha. However, there is about 2.18 ha of land (equivalent to about 87 Small House sites) available within the “V” zone of Che Ha, which is sufficient to fully meet the total estimated Small House demand (i.e. 46 Small Houses) taking into account the number of outstanding Small House applications (i.e. 16 Small Houses) and the 10-year demand forecast (i.e. 30 Small Houses). In this regard, the current application does not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha.
- 13.11 Furthermore, 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 application under processing by LandsD. If the land available for Small House development in the “V” zone is sufficient to meet the number of outstanding Small Housing applications, the Board is of the view that it is 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, even though the total estimated Small House demand is unmet. For this case, the land available for Small House development is sufficient to meet not only the number of outstanding applications but also the 10-year demand forecast.

Public comments

- 13.12 Regarding the public comments received, the Government departments’ comments and planning assessment above are relevant.

14. Planning Department’s Views

- 14.1 Based on the assessments made in paragraph 13 and having taken into account the public comments mentioned in paragraph 12, the Planning Department does not support the application for the following reasons:
- (a) the proposed Small House development does not comply with the Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha; and

- (b) land is still available within the “V” zone of Che Ha 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 infrastructure and services.

14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **3.5.2023**, 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 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 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 VIII**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 15.2 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.
- 15.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

16. Attachments

Appendix I	Application form and supporting documents dated 6.3.2019
Appendix Ia	Consent letter from the owner of adjoining lot
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories promulgated on 7.9.2007
Appendix III	Town Planning Board Guidelines No. 18A
Appendix IV	Previous application

Appendix V	Similar applications in the vicinity of the Site within the same “CDA” zone
Appendix VI	Detailed comments from relevant government departments
Appendix VII	Public comments
Appendix VIII	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Location Plan submitted by the applicant
Drawing A-2	Lot Index Plan submitted by the applicant
Drawing A-3	Master Layout Plan 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 the “V” zone
Plan A-3	Aerial photo
Plan A-4	Site photos
Plan A-5a	Location of the Site as shown on the approved MLP for the comprehensive development under Application No. A/NE-SSH/61-1
Plan A-5b	Location of the Site as shown on the approved MLP for the comprehensive development under Application No. A/NE-SSH/120
Plan A-5c	Location of the ecological buffer zone for Tai Tung Wo Liu Stream on the approved MLP for the comprehensive development under Application No. A/NE-SSH/120

PLANNING DEPARTMENT
MAY 2019

**Relevant Revised Interim Criteria for Assessing Planning Applications for
NTEH/Small House Development in the New Territories
(promulgated on 7.9.2007)**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;

- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development[^]);
 - (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
 - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- [^]i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

Town Planning Board Guidelines for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” (TPB PG-No.18A)

The Town Planning Board Guidelines (TPB PG-No. 18A) for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” are relevant to this application. The major relevant points are as follows:

- (i) the Board may require all applications for permission in an area zoned as “CDA” to be in the form of MLP and supported by other relevant information;
- (ii) in general, the MLP should include plans showing the location of the “CDA” site and the general layout of the whole development and a development schedule showing the main development parameters;
- (iii) if the “CDA” site is not under single ownership, the applicant should be required to demonstrate that the proposed phasing of development has taken due consideration of the development potential of the lots which are not under his ownership. The corresponding GFA and flat number distribution as well as provision of GIC, open space and other public facilities in each phase should be clearly indicated;
- (iv) the MLP should be supported by an explanatory statement which contains an adequate explanation of the development proposal, including such basic information as land tenure, relevant lease conditions, existing conditions of the site, the character of the site in relation to the surrounding areas, principles of layout design, design population, provision of GIC, recreation and open space facilities including responsibility for their construction cost and operation/management, vehicular and pedestrian circulation system including widths and levels of roads/footbridges and whether they would be handed back to the Government on completion; and
- (v) additional information such as TIA, EA, HA, VIA and drainage/sewage impact studies may also be required, where appropriate.

Previous s. 16 & s. 17 Application of the Site

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/96	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 (on review)	A1 – A3

Approval Conditions

- A1. 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;
- A2. The submission and implementation of landscape and tree preservation proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- A3. The submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

**Similar s. 16 Applications in the vicinity of the Site and within the same “CDA” zone on
the Shap Sz Heung Outline Zoning Plan No. S/NE-SSH/11**

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/52	Proposed New Territories Exempted House (NTEH - Small House)	3.3.2006	A1 – A3
A/NE-SSH/97	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 On review	A2 – A4

Approval Conditions

- A1. The permission shall cease to have effect on a specified date unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
- A2. The submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB.
- A3. The submission and implementation of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB.
- A4. 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.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Ping Chau Chau Mei Village of Sai Kung North as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, but his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is not covered by Modification of Tenancy or Building Licence;
- (d) the subject lots are held under Block Government Lease demised for agricultural use. Small House (SH) application by the way of Building Licence submitted by the same applicant for the Site in May 2017 is still under processing;
- (e) if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure Deed of Grant for construction and future maintenance of the said system. Such deed must be prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;
- (f) if and after planning approval has been given by TPB, his office will process the SH application. However, there is no guarantee at this stage that the SH application would be approved. If the SH application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. Please also note that there is no guarantee to the grant of a right of way to the SH concerned or approval of the EVA thereto;
- (g) the application site entirely falls within the 'VE' of Che Ha village; and
- (h) the number of outstanding SH applications and the number of 10-year SH demand for the village are as follows:

<u>Village</u>	<u>No. of 10-year Small House demand forecast</u>	<u>No. of outstanding Small House applications</u>
Che Ha	30*	16

(*The figure of 10-year Small House demand is estimated and provided by the IIR of Che Ha village and the information so obtained is not verified in any way by DLO/TP, LandsD.)

2. **Traffic**

Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection; and
- (b) the existing village access on and near the application site is not under TD's management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application;
- (b) in view of the small scale of the proposed developments, the application alone is unlikely to cause major pollution;
- (c) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP); and
- (d) based on the information provided, no objection from chlorine risk point of view for this application falling within the Consultation Zone of Ma On Shan Water Treatment Works.

4. **Drainage**

Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) :

- (a) there is no existing DSD maintained public drain available for connection in this area;
- (b) if the captioned application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
- (c) the proposed house should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and its uphill overland flow. The applicant/owner is required to maintain such systems properly and

rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) the applicant should note that they should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;
- (e) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
- (f) there is no existing public sewerage available in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the house and the provision of septic tank;
- (g) the proposed small houses may have interfaces with the proposed public sewerage system to be implemented under the project "Tolo Harbour Sewerage of Unsewered Areas Stage 2" undertaken by CM Division, DSD in the vicinity. CM Division, DSD should be consulted for possible interfacing issue;
- (h) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
- (i) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought; and
- (j) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/MN, DSD):

The proposed small house application has no conflict with the "Tolo Harbour Sewerage of Unsewered Areas Stage 2" works in Che Ha. Hence, his office has no comment to the application.

5. **Water Supply**

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) for provision of fresh water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots WSD's standards.
- (c) DFS should note that standard pedestal hydrant cannot be provided in the vicinity of the proposed site; and
- (d) the application site falls within the consultation zone of Ma On Shan Water Treatment Works, which is PHI. Comments from EPD should be sought in this respect.

6. **Fire Safety**

Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

7. **Electricity safety**

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

8. **Landscape**

Comments of the Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application;
- (b) the Site is situated to the east of Che Ha Village which is in an area of rural landscape character comprising scattered tree groups and village houses. Given similar Small Houses are found in close proximity to the Site, the application is not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with gravels. No existing tree is found within the Site. Adverse impact arising from the proposed development on significant landscape resources within the Site is not anticipated; and
- (d) since there is not adequate space for meaningful landscaping within the Site to benefit the public realm, should the Town Planning Board approve the application, the condition for submission and implementation of landscaping proposal is not recommended.

9. **Nature Conservation**

Comment of the Director of Agriculture, Fisheries and Conservation (DAFC):

The Site is hard paved and currently used as car park. Although the Site encroaches onto the fringe of the ecological buffer zone, it is the subject of a previously approved planning permission. He has no strong view on the application.

10. **Demand and Supply of Small House Sites**

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Che Ha Village is 16 while the 10-year Small House demand forecast for the village is 30. From the latest estimate by Planning Department, about 2.18 ha (or equivalent to about 87 Small House sites) of land are available within the "V" zone of Che Ha Village. As such, the land available in the village is sufficient to meet the future Small House demand of 1.15 ha (or equivalent to about 46 Small House sites).

Recommended Advisory Clauses

- (a) to note the DLO/TP, LandsD's comments that:
 - (i) if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure a Deed of Grant for the construction and future maintenance of the said system. Such deed must be prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;
 - (ii) if and after planning approval has been given by TPB, LandsD office will process the Small House application. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the C for T's comments that the existing village access near the Sites is not under TD's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the DEP's comments that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP);
- (d) to note the CE/MN, DSD's comments that:
 - (i) there is no existing DSD maintained public drain available for connection in this area;
 - (ii) the applicant needs to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
 - (iii) the proposed house should have their own stormwater collection and discharge systems to cater for the runoff generated within the site and its uphill overland flow. The applicant/owner is also required to maintain such systems properly and rectify the system if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (iv) the applicant should note that they should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding

environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;

- (v) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
 - (vi) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
 - (vii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought;
 - (viii) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (e) to note the CE/C, WSD's comments that for provision of fresh water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (f) to note the D of FS's comment that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (g) to note the DEMS's comment that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and
- (h) to note that the permission is only given to the development under the application. If provision of an access road is required for the proposed developments, the applicants should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning

permission from the Town Planning Board where required before carrying out the road works.

RNTPC Paper No. A/NE-SSH/128
For Consideration by the
Rural and New Town Planning
Committee on 3.5.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-SSH/128

<u>Applicant</u>	Mr. LEE Keng Ying
<u>Site</u>	Lots 1109 S.A RP and 1124 RP in D.D. 218, Che Ha Village, Shap Sz Heung, Sai Kung North, New Territories
<u>Site Area</u>	136.5m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Shap Sz Heung Outline Zoning Plan (OZP) No. S/NE-SSH/11
<u>Zonings</u>	<p>“Village Type Development” (“V”) (about 11%)</p> <p>“Comprehensive Development Area” (“CDA”) (about 89%)</p> <p>Development Restrictions for “CDA” zone:</p> <p><u>Maximum Gross Floor Area (GFA)</u></p> <ul style="list-style-type: none">- 448,576 m² (domestic);- 8,957 m² (residents’ club);- 9,290 m² (commercial facilities including kindergarten/nursery and church) <p><u>Maximum building height (BH)</u></p> <p>24 residential storeys over one storey of residential entrance lobby and a maximum 3 levels for ancillary car park, if the residential building is constructed above the car park.</p> <p>Based on individual merits of a development or development proposal, minor relaxation of the GFA/BH restrictions may be considered by the Town Planning Board (the Board) on application</p>
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House) and Minor Relaxation of GFA Restrictions

1. **The Proposal**

1.1 On 6.3.2019, the applicant, who claims himself an indigenous villager of Ping Chau Chau Mei Village with confirmation by the relevant Indigenous Inhabitant Representative (IIR)¹, sought planning permission to build an NTEH (Small House) on the application site (the Site), with minor relaxation of GFA restrictions for the “CDA” zone on the OZP (**Plan A-1**).

1.2 Details of the proposed Small House are as follows:

Total floor area (m ²)	: 195.09
No. of storeys	: 3
Building height (m)	: 8.23
Site coverage	: 47.6%

1.3 The uncovered area of the Site is proposed for garden use.

1.4 The Site is the subject of a previous application for Small House (Application No. A/NE-SSH/97) submitted by a different applicant, which was approved by the Town Planning Board (the Board) on review on 10.4.2015 but lapsed on 11.4.2019.

1.5 In support of the application, the applicant has submitted an application form dated 6.3.2019 (**Appendix I**) with attachments including site location plan, lot index plan and master layout plan (**Drawings A-1 to A-3**).

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 of Ping Chau. It is difficult to build a Small House in Ping Chau as it is within country park area and lacks infrastructure and transportation;
- (b) the applicant bought the land from the former landowner who was granted planning permission for building Small House at the Site. The permission was given on 10.4.2015 and will expire after 10.4.2019;
- (c) the applicant will submit a drainage proposal to the relevant department and will comply with all the approval conditions; and
- (d) no on-site works will be commenced before obtaining approval and relevant Certificates of Exemption from Lands Department.

¹ The District Lands Officer/Tai Po, Lands Department advised that the applicant's eligibility of Small House grant has yet to be ascertained.

3. Background of the Comprehensive Development in the “CDA” zone

- 3.1 The “CDA” zone covering the Site comprises three parcels of land near Che Ha, Tseng Tau and Tai Tung Wo Liu Villages, which are identified to be suitable for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities under the OZP.
- 3.2 There have been 12 applications (No. A/DPA/NE-SSH/12, A/NE-SSH/5, 7, 10, 15, 16, 18, 22, 26, 28, 61 and 120) for comprehensive residential, commercial and recreational development with Government, Institution and Community facilities in the “CDA” zone approved between 1995 and 2019. Except applications No. A/NE-SSH/61 and 120, the planning permissions for other 10 applications were lapsed and no longer valid.
- 3.3 Application No. A/NE-SSH/61 was approved with conditions on 8.5.2009, with subsequent Class B amendments (Application No. A/NE-SSH/61-1) approved on 2.12.2009 and extension of validity period until 8.5.2017 (Application No. A/NE-SSH/61-2). The approved scheme comprises 46 residential towers (16-24 storeys) and 32 houses with a total domestic GFA of 448,576m², commercial GFA of 9,290m² and residents’ club GFA of 8,957 m². The building plans for the scheme were approved by the Building Authority in 2016 and 2017, and the land exchange was executed in 2017². The scheme is deemed to have commenced. The approved MLP is at **Plan A-5a**.
- 3.4 The latest application No. A/NE-SSH/120 was approved by the Committee on 18.1.2019, which involved a proposed development of 46 residential towers (16-31 storeys) with a total domestic GFA of 538,213m², commercial GFA of 12,077m² and residents’ club GFA of 13,446m². A minor relaxation of the restrictions on domestic GFA (+20%), commercial GFA (+30%) and residents’ club GFA (+50%) were approved. Furthermore, a 20-metre wide ecological buffer zone is designated on each side of Tai Tung Wo Liu Stream for preservation and enhancement of the ecological value of the stream. The approved MLP is at **Plan A-5b**.
- 3.5 The proposed Small House under this application is located at the fringe of the North Plain Site of the comprehensive development and annotated as “land to be secured by the applicant” under the MLPs (**Plans A-5a and A-5b**). No specific use or development was proposed for the Site.

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

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

² The Site is not included in the land exchange as it has not been acquired by the applicant of the comprehensive development. According to the approved schemes, a domestic GFA of 12,641m² (under Application No. A/NE-SSH/61) or 15,170m² (under Application No. A/NE-SSH/120) is reserved as ‘Phase 2’ of the comprehensive development to uphold the development right of the owners of private land not yet secured by the applicant of the comprehensive development.

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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

6. **Town Planning Board Guidelines**

The Town Planning Board Guidelines (TPB PG-No. 18A) for 'Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance' are relevant to this application. The major relevant points are summarised in **Appendix III**.

7. **Previous Application**

7.1 Besides the applications for comprehensive development mentioned in paragraph 3 above, the Site is the subject of a previous application No. A/NE-SSH/97 for NTEH (Small House) use submitted by a different applicant. The application, was rejected by the Committee on 14.11.2014 for reasons of not complying with the Interim Criteria as there was no general shortage of land in the "V" zone to meet the Small House demand and the setting of an undesirable precedent for other similar developments to proliferate into the "CDA" zone. It was subsequently approved by the Board on review on 10.4.2015 mainly on sympathetic consideration that the proposed Small House would involve a relatively small area at the fringe of the "CDA" zone, which was not incompatible with the approved comprehensive development and would not have significant impact on the overall implementation of the development.

7.2 Details of this previous application are summarized at **Appendix IV**.

8. **Similar Applications**

8.1 There are two similar applications (No. A/NE-SSH/52 and 96) in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000.

8.2 Application No. A/NE-SSH/52 was approved with conditions by the Committee on 3.3.2006 mainly on the consideration that it generally complied with the Interim Criteria; the proposed Small House would not jeopardise the implementation of the comprehensive development as the site was located outside the land exchange boundary; and there was general shortage of land in the "V" zone in meeting the then estimated future demand for Small House development.

8.3 Application No. A/NE-SSH/96 was rejected by the Committee on 14.11.2014 for the same grounds as the previous application (No. A/NE-SSH/97) for the current case and also for a reason that the application was not in line with the planning intention of the "CDA" zone as it involved Government land to be included in the land exchange for implementation of the approved

comprehensive development. The case was subsequently approved by the Board on review on 10.4.2015, based on the same sympathetic consideration as Application No. A/NE-SSH/97.

- 8.4 There is another application for NTEH (Small House) (No. A/NE-SSH/127), covering the same site as Application No. A/NE-SSH/96, which will be considered by the Committee at the same meeting with the current application.
- 8.5 Details of the above applications are summarized at **Appendix V** and their locations are shown on **Plans A-1 and A-2a**.

9. The Site and its Surrounding Area (Plans A-1 to A-4)

9.1 The Site is:

- (a) adjacent to the eastern edge of the Che Ha village proper and entirely within the 'VE' of Che Ha;
- (b) generally flat, vacant and paved; and
- (c) accessible by a vehicular track leading to Sai Sha Road.

9.2 The surrounding areas are generally rural in nature with village houses and scattered tree groups. A section of Tai Tung Wo Liu Stream runs at about 22 metres from the east of the Site. About 50 metres to the east of the Site is an existing golf driving range.

10. Planning Intention

- 10.1 The planning intention of the "CDA" is for comprehensive development of the area for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.
- 10.2 The planning intention of the "V" zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. 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.

11. Comments from Relevant Government Departments

- 11.1 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 ? - Footprint of the Small House - Application site	- 11%	100% 89%	- About 14.5m ² (11%) of the Site falls within the "V" zone, but the footprint of the proposed Small House falls entirely within "CDA" zone.
2.	Within 'VE'? - Footprint of the Small House - Application site	100% 100%	- -	- The Site falls entirely within the 'VE' of Che Ha. (Plan A-1) - The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand forecast)?	✓		- Land required to meet Small House demand: about 1.15 ha (or equivalent to 46 Small House sites). The outstanding Small House applications for Che Ha are 16 while the 10-year Small House demand forecast for the same village is 30.
	Sufficient land in "V" zone to meet outstanding Small House applications	✓		- Land available to meet Small House demand: 2.18 ha (87 Small House sites).
4.	Compatible with the planning intention of "CDA" zone?		✓	- The planning intention of the "CDA" zone is for comprehensive development of the area for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities.
5.	Compatible with surrounding area/development?	✓		- The Site and the surrounding areas are generally rural in nature with village houses. - The Director of Environmental Protection (DEP) has no comment on the application in view of its small scale.

6.	Within WGG?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
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 objection to the application.
9.	Traffic impact?		✓	- Commissioner for Transport (C for T) has no objection to the application.
10.	Drainage and sewerage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection from drainage point of view. - Approval condition on the submission and implementation of drainage proposal is required.
11.	Landscape impact?		✓	- The 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, and advises that approval condition on the submission and implementation of landscaping proposal would not be necessary.
12.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO) of CEDD) has no comment on the application.
13.	Local objections received from DO?		✓	

11.2 Comments from the following Government departments have been incorporated in the above paragraph and **Appendix VI**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Environmental Protection;
- (c) Director of Agriculture, Fisheries and Conservation;
- (d) Chief Engineer/Construction, Water Supplies Department;
- (e) Director of Fire Services;
- (f) Commissioner for Transport;
- (g) Chief Engineer/Mainland North, Drainage Services Department;
- (h) Chief Engineer/Consultants Management, Drainage Services Department;
- (i) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (j) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (k) Director of Electrical and Mechanical Services.

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

- (a) Project Manager/New Territories East, Civil Engineering and Development Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department; and
- (c) District Officer/Tai Po, Home Affairs Department.

12. **Public Comments Received During Statutory Publication Period**

On 15.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 6.4.2019, five public comments from Che Ha Village Office and four individuals were received (**Appendix VII**). The commenters raised concerns or objection to the application mainly on the grounds that the applicant is not indigenous villager of Che Ha, the proposed development would cause adverse environmental, ecological and noise impact to the surrounding areas, risks to pedestrian's safety during construction, blockage to access to other houses and was not in line with the planning intention.

13. **Planning Considerations and Assessments**

- 13.1 The Site falls mainly (89%) within an area zoned "CDA" which is intended for comprehensive development for residential, commercial and recreational uses with the provision of open spaces and other supporting facilities. The zone is subject to restrictions on development parameters including a maximum domestic GFA of 448,576m². The applicant seeks minor relaxation of that GFA restriction by 195.09m², i.e. from 448,576m² to 448,771.09m² to accommodate the proposed Small House development on the Site.
- 13.2 The "CDA" zone is also the subject of two valid planning permissions for comprehensive development, under Applications No. A/NE-SSH/61 and No. A/NE-SSH/120. The domestic GFA for the approved scheme under Application No. A/NE-SSH/61 is 448,576m² which is the same as the maximum GFA stipulated for the "CDA" zone. For the Application No. A/NE-SSH/120, a minor relaxation of about 20% from the maximum GFA was granted to accommodate a domestic GFA of 538,213m². The proposed Small House under this current application, with a GFA of 195.09m², will increase the

overall GFA in the area covered by the approved comprehensive development schemes from 448,576m² to 448,771.09m² (for the scheme under Application No. A/NE-SSH/61) or from 538,213m² to 538,408.09m² (for the scheme under Application No. A/NE-SSH/120).

- 13.3 It is stipulated in the Notes of the OZP that an applicant for permission for development on land designated “CDA” shall prepare a MLP together with technical assessments for the approval of the Board. The applicant under this current application has adopted the approved MLP of Application No. A/NE-SSH/61-1 and incorporated his Site thereon (**Drawing A-3**). However, no technical assessment has been submitted.

Implication on the Approved Comprehensive Development

- 13.4 The Site occupies an area of about 136.5m², which is about 0.02% of the development site area of the approved schemes under Applications No. A/NE-SSH/61 and No. A/NE-SSH/120 (both about 65 ha). It is located at the fringe of the approved schemes and is annotated as “land to be secured by applicant” under the MLP of both schemes. No specific use or development is designated on the Site. Furthermore, it is not included in the regrant lot under the land exchange executed in 2017 for the approved comprehensive development scheme under Application No. A/NE-SSH/61-1. The proposed Small House development will unlikely jeopardise the implementation of the approved comprehensive development.

Land Use Compatibility

- 13.5 The Site is located adjacent to the eastern edge of Che Ha Village proper, and the surrounding areas are generally rural in nature. The part of the approved comprehensive development in the vicinity of the Site is mainly designated for conserved woodlands, landscaped areas and golf driving range (for Application No. A/NE-SSH/120) or landscaped area and golf course (for Application No. A/NE-SSH/61). The proposed Small House under this current application is considered compatible with the character of the surrounding environment. Relevant Government departments consulted including DEP, DAFC, C for T, CE/C of WSD, CE/MN of DSD and CTP/UD&L of PlanD have no in-principle objection nor adverse comments on the application.

Previous and Similar Applications

- 13.6 The Site is the subject of planning approval for NTEH (Small House) granted by the Board on review to a different applicant on 10.4.2015 (Application No. A/NE-SSH/97). The application was rejected by the Committee for reasons of being not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand, and setting of an undesirable precedent for other similar developments to proliferate into the “CDA” zone. It was subsequently approved by the Board on review mainly on sympathetic consideration that the proposed Small House was not incompatible with the approved comprehensive development and would not affect the overall implementation of the development. Nonetheless, that permission has lapsed on 11.4.2019.

- 13.7 According to the Interim Criteria (d) (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the Criteria would normally not be allowed. Sympathetic consideration may be given if there are special circumstances such as the site is an infill site among existing Small Houses or processing of the Small House grant is already at an advance stage. For this current application, no such special circumstances are applicable. It should also be noted that the previous approval was granted to a different applicant. The current applicant acquired the Site in April 2017 after the previous approval was given. His application for Small House grant, submitted to LandsD in May 2017, is still under processing.
- 13.8 There were also two similar applications approved in the vicinity of the Site, namely Applications No. A/NE-SSH/52 and 96 approved on 3.3.2006 and 10.4.2015 respectively. Application No. A/NE-SSH/52 was approved by the Committee in 2006 mainly on the consideration that the application, involving a site with 87% of area falling within the “V” zone, was generally in compliance with the Interim Criteria and there was a general shortage of land in the “V” zone to meet the estimated Small House demand at the time of consideration. In comparison, only about 11% of the application site under this current application falls within “V” zone and there is sufficient land available in the “V” zone to meet the currently estimated Small House demand. Therefore, the planning circumstances of that approved application are not similar to the current application.
- 13.9 As for Application No. A/NE-SSH/96 adjoining the current application site, it was rejected by the Committee on 14.11.2014 for being not in line with the planning intention of “CDA” zone; not complying with the Interim Criteria as there was no general shortage of land in the “V” zone to meet the Small House demand; and setting of an undesirable precedent. It was subsequently approved by the Board on review on the same sympathetic consideration as Application No. A/NE-SSH/97. That planning permission, however, has also lapsed on 11.4.2019.

Interim Criteria

- 13.10 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Che Ha. However, there is about 2.18 ha of land (equivalent to about 87 Small House sites) available within the “V” zone of Che Ha, which is sufficient to fully meet the total estimated Small House demand (i.e. 46 Small Houses) taking into account the number of outstanding Small House applications (i.e. 16 Small Houses) and the 10-year demand forecast (i.e. 30 Small Houses). In this regard, the current application does not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha.
- 13.11 Furthermore, 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 application under processing by LandsD. If

the land available for Small House development in the “V” zone is sufficient to meet the number of outstanding Small Housing applications, the Board is of the view that it is 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, even though the total estimated Small House demand is unmet. For this case, the land available for Small House development is sufficient to meet not only the number of outstanding applications but also the 10-year demand forecast.

Public comments

13.12 Regarding the public comments received, the Government departments' comments and planning assessment above are relevant.

14. Planning Department's Views

14.1 Based on the assessments made in paragraph 13 and having taken into account the public comments mentioned in paragraph 12, the Planning Department does not support the application for the following reasons:

- (a) the proposed Small House development does not comply with the Interim Criteria for assessing planning application for NTEH/Small House development in the New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Che Ha; and
- (b) land is still available within the “V” zone of Che Ha 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 infrastructure and services.

14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **3.5.2023**, 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 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 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 VIII**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 15.2 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.
- 15.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

16. Attachments

Appendix I	Application form and supporting documents dated 6.3.2019
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories promulgated on 7.9.2007
Appendix III	Town Planning Board Guidelines No. 18A
Appendix IV	Previous application
Appendix V	Similar applications in the vicinity of the Site within the same "CDA" zone
Appendix VI	Detailed comments from relevant government departments
Appendix VII	Public comments
Appendix VIII	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Location Plan submitted by the applicant
Drawing A-2	Lot Index Plan submitted by the applicant
Drawing A-3	Master Layout Plan 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 the "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photos
Plan A-5a	Location of the Site as shown on the approved MLP for the comprehensive development under Application No. A/NE-SSH/61-1
Plan A-5b	Location of the Site as shown on the approved MLP for the comprehensive development under Application No. A/NE-SSH/120

Relevant Revised Interim Criteria for Assessing Planning Applications for
NTEH/Small House Development in the New Territories
(promulgated on 7.9.2007)

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;

- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development[^]);
 - (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
 - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- [^]i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Town Planning Board Guidelines for “Submission of Master Layout Plan under section
4A(2) of the Town Planning Ordinance” (TPB PG-No.18A)**

The Town Planning Board Guidelines (TPB PG-No. 18A) for “Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance” are relevant to this application. The major relevant points are as follows:

- (i) the Board may require all applications for permission in an area zoned as “CDA” to be in the form of MLP and supported by other relevant information;
- (ii) in general, the MLP should include plans showing the location of the “CDA” site and the general layout of the whole development and a development schedule showing the main development parameters;
- (iii) if the “CDA” site is not under single ownership, the applicant should be required to demonstrate that the proposed phasing of development has taken due consideration of the development potential of the lots which are not under his ownership. The corresponding GFA and flat number distribution as well as provision of GIC, open space and other public facilities in each phase should be clearly indicated;
- (iv) the MLP should be supported by an explanatory statement which contains an adequate explanation of the development proposal, including such basic information as land tenure, relevant lease conditions, existing conditions of the site, the character of the site in relation to the surrounding areas, principles of layout design, design population, provision of GIC, recreation and open space facilities including responsibility for their construction cost and operation/management, vehicular and pedestrian circulation system including widths and levels of roads/footbridges and whether they would be handed back to the Government on completion; and
- (v) additional information such as TIA, EA, HA, VIA and drainage/sewage impact studies may also be required, where appropriate.

Previous s. 16 & s. 17 Application of the Site

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/97	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 (on review)	A1 – A3

Approval Conditions

- A1. 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;
- A2. The submission and implementation of landscape and tree preservation proposals to the satisfaction of the Director of Planning or of the Town Planning Board; and
- A3. The submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

**Similar s. 16 Applications in the vicinity of the Site and within the same “CDA” zone on
the Shap Sz Heung Outline Zoning Plan No. S/NE-SSH/11**

Approved Application

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/NE-SSH/52	Proposed New Territories Exempted House (NTEH - Small House)	3.3.2006	A1 – A3
A/NE-SSH/96	Proposed New Territories Exempted House (NTEH - Small House)	10.4.2015 On review	A2 – A4

Approval Conditions

- A1. The permission shall cease to have effect on a specified date unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.
- A2. The submission and implementation of landscaping proposals to the satisfaction of the Director of Planning or of the TPB.
- A3. The submission and implementation of drainage facilities to the satisfaction of the Director of Drainage Services or of the TPB.
- A4. 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.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the applicant is an indigenous villager of Ping Chau Chau Mei Village of Sai Kung North as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, but his eligibility of Small House grant has yet to be ascertained;
- (c) the Site is not covered by Modification of Tenancy or Building Licence;
- (d) the subject lots are held under Block Government Lease demised for agricultural use. Small House (SH) application by the way of Building Licence submitted by the same applicant for the Site in May 2017 is still under processing;
- (e) the proposed septic tank and soakage pit system will be situated on Lot No. 1124 RP in D.D. 218. His office has no comment on it;
- (f) if and after planning approval has been given by TPB, his office will process the SH application. However, there is no guarantee at this stage that the SH application would be approved. If the SH application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. Please also note that there is no guarantee to the grant of a right of way to the SH concerned or approval of the EVA thereto;
- (g) the application site entirely falls within the 'VE' of Che Ha village; and
- (h) the number of outstanding SH applications and the number of 10-year SH demand for the village are as follows:

<u>Village</u>	<u>No. of 10-year Small House demand forecast</u>	<u>No. of outstanding Small House applications</u>
Che Ha	30*	16

(*The figure of 10-year Small House demand is estimated and provided by the IIR of Che Ha village and the information so obtained is not verified in any way by DLO/TP, LandsD.)

2. **Traffic**

Comments of the Commissioner for Transport (C for T):

- (a) no in-principle objection; and
- (b) the existing village access on and near the application site is not under TD's management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the application;
- (b) in view of the small scale of the proposed developments, the application alone is unlikely to cause major pollution;
- (c) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice. Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP); and
- (d) based on the information provided, no objection from chlorine risk point of view for this application falling within the Consultation Zone of Ma On Shan Water Treatment Works.

4. **Drainage**

Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) :

- (a) there is no existing DSD maintained public drain available for connection in this area;
- (b) if the captioned application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
- (c) the proposed house should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and its uphill overland flow. The applicant/owner is required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during

operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) the applicant should note that they should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;
- (e) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
- (f) there is no existing public sewerage available in the vicinity of the Site. EPD should be consulted regarding the sewage treatment/disposal aspects of the house and the provision of septic tank;
- (g) the proposed small houses may have interfaces with the proposed public sewerage system to be implemented under the project "Tolo Harbour Sewerage of Unsewered Areas Stage 2" undertaken by CM Division, DSD in the vicinity. CM Division, DSD should be consulted for possible interfacing issue;
- (h) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
- (i) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought; and
- (j) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

Comments of the Chief Engineer/Consultants Management, Drainage Services Department (CE/MN, DSD):

The proposed small house application has no conflict with the "Tolo Harbour Sewerage of Unsewered Areas Stage 2" works in Che Ha. Hence, his office has no comment to the application.

5. **Water Supply**

Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) no objection to the application;
- (b) for provision of fresh water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots WSD's standards.
- (c) DFS should note that standard pedestal hydrant cannot be provided in the vicinity of the proposed site; and
- (d) the application site falls within the consultation zone of Ma On Shan Water Treatment Works, which is PHI. Comments from EPD should be sought in this respect.

6. **Fire Safety**

Comments of the Director of Fire Services (D of FS):

- (a) no in-principle objection to the application; and
- (b) the applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

7. **Electricity safety**

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

8. **Landscape**

Comments of the Chief Town Planner, Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application;
- (b) the Site is situated to the east of Che Ha Village which is in an area of rural landscape character comprising scattered tree groups and village houses. Given similar Small Houses are found in close proximity to the Site, the application is not incompatible with the surrounding environment;
- (c) the Site is vacant and covered with gravels. No existing tree is found within the Site. Adverse impact arising from the proposed development on significant landscape resources within the Site is not anticipated; and
- (d) since there is not adequate space for meaningful landscaping within the Site to benefit the public realm, should the Town Planning Board approve the application, the condition for submission and implementation of landscaping proposal is not recommended.

9. **Nature Conservation**

Comment of the Director of Agriculture, Fisheries and Conservation (DAFC):

The Site is hard paved and currently used as car park. It is the subject of a previously approved planning permission. He has no strong view on the application.

10. **Demand and Supply of Small House Sites**

According to DLO/TP, LandsD's records, the total number of outstanding Small House applications for Che Ha Village is 16 while the 10-year Small House demand forecast for the village is 30. From the latest estimate by Planning Department, about 2.18 ha (or equivalent to about 87 Small House sites) of land are available within the "V" zone of Che Ha Village. As such, the land available in the village is sufficient to meet the future Small House demand of 1.15 ha (or equivalent to about 46 Small House sites).

Recommended Advisory Clauses

- (a) to note the DLO/TP, LandsD's comments that if and after planning approval has been given by TPB, LandsD office will process the Small House application. If the Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the C for T's comments that the existing village access near the Sites is not under TD's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the DEP's comments that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP);
- (d) to note the CE/MN, DSD's comments that;
 - (i) there is no existing DSD maintained public drain available for connection in this area;
 - (ii) the applicant needs to submit and implement the drainage proposal for the site to satisfaction of Director of Drainage Services to ensure that it will not cause adverse drainage impact to the surrounding area and the residential premises located at its downhill side;
 - (iii) the proposed house should have their own stormwater collection and discharge systems to cater for the runoff generated within the site and its uphill overland flow. The applicant/owner is also required to maintain such systems properly and rectify the system if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (iv) the applicant should note that they should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;
 - (v) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;

- (vi) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
 - (vii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought;
 - (viii) the lot owner/developer should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (e) to note the CE/C, WSD's comments that for provision of fresh water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
 - (f) to note the D of FS's comment that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
 - (g) to note the DEMS's comment that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and
 - (h) to note that the permission is only given to the development under the application. If provision of an access road is required for the proposed developments, the applicants should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.

[Messrs K.K. Cheung and L.T. Kwok arrived to join the meeting at this point.]

Minutes of 625th Meeting of the
Rural and New Town Planning Committee held on 3.5.2019

Agenda Items 10 and 11

Section 16 Applications

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-SSH/127 Proposed House (New Territories Exempted House - Small House) and
Minor Relaxation of Gross Floor Area Restrictions in “Comprehensive
Development Area” Zone, Lots 1109 S.A ss.1 and 1124 S.A in D.D.
218, Che Ha Village, Shap Sz Heung, Sai Kung North
(RNTPC Paper No. A/NE-SSH/127)

A/NE-SSH/128 Proposed House (New Territories Exempted House - Small House) and
Minor Relaxation of Gross Floor Area Restrictions in “Comprehensive
Development Area” and “Village Type Development” Zones, Lots
1109 S.A RP and 1124 RP in D.D. 218, Che Ha Village, Shap Sz
Heung, Sai Kung North
(RNTPC Paper No. A/NE-SSH/128)

30. The Committee noted that the two applications for proposed house (New Territories Exempted House (NTEH) – Small House) were similar in nature and the application sites (the sites) were located in close proximity to one another and within the same “Comprehensive Development Area” (“CDA”) zone. The Committee agreed that the applications could be considered together.

Presentation and Question Sessions

31. Mr Tony Y.C. Wu, STP/STN, presented the applications and covered the following aspects as detailed in the Papers:

- (a) background to the applications;

- (b) the proposed house (NTEH - Small House) and minor relaxation of gross floor area restrictions at each of the sites;
- (c) departmental comments – departmental comments were set out in paragraph 11 and Appendix VI of the Papers. Concerned government departments had no objection to or no adverse comment on the applications;
- (d) during the first three weeks of the statutory publication period, five public comments raising concerns on or objections to each application were received from Che Ha Village Office and four individuals. Major views were set out in paragraph 12 of the Papers; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the applications based on the assessments set out in paragraph 13 of the Papers. Regarding the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories, while the sites and the footprints of the proposed Small Houses fell entirely within the village ‘environs’ of Che Ha, land available within the “Village Type Development” (“V”) zone was sufficient to fully meet the future Small House demand and the outstanding Small House applications. It was 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 infrastructure and services. The sites of both applications were the subject of a previously approved application (No. A/NE-SSH/96 and 97) respectively, which were submitted by different applicants. Both planning permissions lapsed on 11.4.2019. The sites of the subject applications were both acquired by the applicants in April 2017 after the previous planning approval was granted and the applications for Small House grant were still processing. There were no special circumstances to warrant sympathetic considerations to the subject applications. The planning circumstances of similar approved applications in the vicinity of the sites were different from the subject applications. Regarding the adverse public comments, the comments of government departments and planning

assessments above were relevant.

[Mr Ivan C.S. Fu arrived to join the meeting during the presentation.]

32. Members had no question on the applications.

Deliberation Session

33. After deliberation, the Committee decided to reject the applications. The reasons for each of the applications were:

- “(a) the proposed Small House development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “Village Type Development” (“V”) zone of Che Ha; and
- (b) land is still available within the “V” zone of Che Ha 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 infrastructure and services.”

Agenda Item 12

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-LYT/689 Temporary Vehicle Park (Private Car and Motorcycle) for a Period of 3 Years in “Agriculture” Zone, Lots 1578 (Part), 1584 S.I to 1584 S.Q, 1584 S.R (Part), 1584 S.S and 1584 RP (Part) in D.D. 83, Lung Yeuk Tau
(RNTPC Paper No. A/NE-LYT/689)

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

By Post

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-SSH/127

17 May 2019

Lee Keng Wai

Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)
and Minor Relaxation of Gross Floor Area Restrictions
in "Comprehensive Development Area" Zone, Lots 1109 S.A ss.1
and 1124 S.A in D.D. 218, Che Ha Village, Shap Sz Heung, Sai Kung North**

I refer to my letter to you dated 15.3.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed Small House development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Che Ha; and
- (b) land is still available within the "V" zone of Che Ha 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 infrastructure and services.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 3.5.2019 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 8.6.2019). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Mr. Tony Wu of Sha Tin, Tai Po & North District Planning Office at 2158 6372.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

城市規劃委員會

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來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-SSH/128

By Post

17 May 2019

Lee Keng Ying

Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)
and Minor Relaxation of Gross Floor Area Restrictions in "Comprehensive
Development Area" and "Village Type Development" Zones, Lots 1109 S.A RP
and 1124 RP in D.D. 218, Che Ha Village, Shap Sz Heung, Sai Kung North**

I refer to my letter to you dated 15.3.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the proposed Small House development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Che Ha; and
- (a) land is still available within the "V" zone of Che Ha 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 infrastructure and services.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 3.5.2019 are enclosed herewith for your reference.

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Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Mr. Tony Wu of Sha Tin, Tai Po & North District Planning Office at 2158 6372.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

Recommended Advisory Clauses

- (a) to note the DLO/TP, LandsD's comments that:

For both Applications No. A/NE-SSH/127 and 128

- (i) if and after planning approval has been given by TPB, LandsD office will process the Small House applications. If the Small House applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approvals will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small Houses concerned or approval of the emergency vehicular access thereto;

For Application No. A/NE-SSH/127 only

- (ii) if the applicant's septic tank and soakage pit system will be constructed on adjoining Lot No. 1124 RP in D.D. 218, the applicant is required to procure a Deed of Grant for the construction and future maintenance of the said system. Such deed must be prepared by a solicitor, properly executed and duly registered in the Land Registry against the affected lots;
- (b) to note the C for T's comments that the existing village access near the Sites is not under TD's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes;
- (c) to note the DEP's comments that septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP);
- (d) to note the CE/MN, DSD's comments that;
- (i) there is no existing DSD maintained public drain available for connection in this area;
- (ii) the applicants need to submit and implement the drainage proposal for the sites to satisfaction of Director of Drainage Services to ensure that they will not cause adverse drainage impact to the surrounding area and the residential premises located at their downhill side;
- (iii) the proposed houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the sites and their uphill overland flow. The applicants/owners are also required to maintain such systems properly and rectify the system if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (iv) the applicant should note that they should design the drainage proposal based on the actual site condition for DSD's comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned

parties/departments if necessary. The applicant/owner should make sure no adverse drainage and geotechnical impact will be caused to the area due to the proposed small house;

- (v) the existing natural stream, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
 - (vi) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at their expense;
 - (vii) for works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP and/or relevant private lot owner(s) should be sought;
 - (viii) the lot owners/developers should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (e) to note the CE/C, WSD's comments that for provision of fresh water supply to the development, the applicants may need to extend their inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards;
- (f) to note the D of FS's comment that the applicants should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (g) to note the DEMS's comment that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the concerned site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines; and
- (h) to note that the permission is only given to the development under the applications. If provision of an access road is required for the proposed developments, the applicants should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.