

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/681

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|---------------------------|--|
| <u>Applicant</u> | Mr. CHAN Chun Ho represented by Mr. HUI Kwan Yee |
| <u>Site</u> | Lot 640 S.A in D.D. 19, She Shan Village, Tai Po, New Territories |
| <u>Site Area</u> | About 125.9m ² |
| <u>Lease</u> | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11 |
| <u>Zonings</u> | “Agriculture” (“AGR”) (about 99%) “Village Type Development” (“V”) (about 1%) |
| <u>Application</u> | Proposed House (New Territories Exempted House (NTEH) - Small House) |

1. The Proposal

- 1.1 The applicant, an indigenous villager of She Shan Tsuen¹ as confirmed by the respective Indigenous Inhabitant Representative (IIR), seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted in the “V” zone, ‘House (NTEH only)’ in the “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed Small House development are as follows:
- | | | |
|------------------|---|----------------------|
| Total floor area | : | 195.09m ² |
| No. of storeys | : | 3 |
| Building height | : | 8.23m |
| Roofed over area | : | 65.03m ² |
- 1.3 The applicant indicates that there is no proposed use for the uncovered area of the Site. Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**.

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

- 1.4 The Site is the subject of a previous application (No. A/NE-LT/541) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.8.2015. However, that planning permission lapsed on 8.8.2019. Compared with the previous application (No. A/NE-LT/541), the footprint and development parameters of the proposed Small House remain the same under the current application.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachment received on 24.1.2020 (**Appendix I**)
 - (b) Supplementary information received on 5.2.2020 (**Appendix Ia**)
 - (c) Further information (FI) received on 3.3.2020[^] providing further justifications (**Appendix Ib**)
- (^ accepted and exempted from publication and recounting requirements)*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application as stated in Part 8 of the application form and FI at **Appendices I** and **Ib** are summarized as follows:

- (a) the proposed Small House development will be built on a piece of vacant agricultural land;
- (b) there is no other land available for the proposed Small House development;
- (c) similar Small House developments can be found in the vicinity of the Site; and
- (d) planning permission had been given under Application No. A/NE-LT/541 in 2015. Nevertheless, it took a long time in the preparation of a full set of survey record and the verification of such record by the Lands Department. When the submission was accepted by LandsD in July 2019, the applicant realized that the planning permission granted under Application No. A/NE-LT/541 became invalid as he forgot to apply for extension of the validity period of the approved Small House. Therefore, a fresh application for the proposed Small House is required.

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

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

4. **Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. On 23.8.2002, criterion (i) which requires that the application site, if located within the water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. **Previous Application**

5.1 The Site is the subject of a previous application (No. A/NE-LT/541) for proposed Small House submitted by the same applicant, which was approved with conditions by the Committee on 7.8.2015 mainly on the considerations that it complied with the Interim Criteria in that more than 50% of the Small House footprint fell within the village 'environs' ('VE'); there was a general shortage of land in meeting the Small House demand at the time of consideration; the proposed Small House would be able to be connected to the planned public sewerage system in the area; and it was considered as an infill development. Compared with the previous application (No. A/NE-LT/541), there is no change in the Small House footprint and major development parameters.

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

6. **Similar Applications**

6.1 There are seven similar applications for Small House development in the vicinity of the Site and within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000. Out of these applications, six were approved and one was rejected.

6.2 Four applications (No. A/NE-LT/316, 317, 419 and 421) were approved with conditions by the Committee between 2004 and 2011 mainly on the considerations that the applications were in line with the Interim Criteria in that the Small House footprints fell entirely within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system in the area. Subsequently, two applications (No. A/NE-LT/548 and 549) were approved by the Committee in 2015 mainly for reasons of being the subject of previously approved applications (No. A/NE-LT/316 and 317).

6.3 Application No. A/NE-LT/301 was rejected by the Committee in 2003 mainly for the reason of not complying with the Interim Criteria as the proposed Small House was not able to be connected to the existing or planned sewerage system in the area.

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

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

7.1 The Site is:

- (a) flat and covered with groundcover;
- (b) located at the southern fringe of She Shan Tsuen;
- (c) accessible from She Shan Road via a footpath; and
- (d) within the She Shan Tsuen Site of Archaeological Interest.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses and natural woodland. The village cluster of She Shan Tsuen is situated to the immediate north of the Site.

8. Planning Intentions

8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

8.2 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. Comments from Relevant Government Departments

9.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized in the following table:

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|----|--------------------------------|------------|-----------|---|
| 1. | Within “V” zone? | | | - The major portion of the Site and the Small House footprint fall within the “AGR” zone. |
| | - Footprint of the Small House | - | 100% | |
| | - Application site | 1% | 99% | |

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|----|--|------------------|------------|--|
| 2. | Within 'VE'? - Footprint of the Small House - Application site | 100% 100% | - - | - The Site and the Small House footprint fall entirely within the 'VE' of She Shan Tsuen. - 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)? | | ✓ | <u>Land Required</u> - Land required to meet Small House demand in She Shan Tsuen: about 1.78ha (equivalent to 71 Small House sites). The outstanding Small House applications are 21 ² while the 10-year Small House demand forecast for the same village is 50. <u>Land Available</u> - Land available to meet Small House demand within the "V" zone of the village concerned: about 1.55 ha (equivalent to 62 Small House sites) (Plan A-2b). |
| | Sufficient land in "V" zone to meet outstanding Small House applications? | ✓ | | |
| 4. | Compatible with the planning intention of "AGR" zone? | | ✓ | - The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural development point of view as agricultural infrastructure such as road access and water source are available, and the Site possesses potential for agricultural rehabilitation. |
| 5. | Compatible with surrounding area/ development? | ✓ | | - The surrounding areas are preliminary rural in character occupied by village houses and natural woodland. |
| 6. | Within Water Gathering Ground | ✓ | | - The Director of Environmental |

² Among the 21 outstanding Small House applications, 9 of them fall within the "V" zone and 12 straddle or outside the "V" zone. For those 12 applications straddling or outside the "V" zone, none of them has obtained valid planning approval from the Board.

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|-----|---|------------|-----------|---|
| | (WGG)? | | | Protection (DEP) and the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no objection to the application as the Site is able to be connected to the public sewerage system. |
| 7. | Sewerage Impact | ✓ | | <ul style="list-style-type: none"> - Approval conditions on connection to public sewers and provision of protective measures to WGG are required. |
| 8. | Encroachment onto planned road networks and public works boundaries? | | ✓ | |
| 9. | Need for provision of fire services installations and emergency vehicular access (EVA)? | | ✓ | <ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no comment on the application. |
| 10. | Traffic impact? | | ✓ | <ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has no in-principle objection to the application. |
| 11. | Drainage impact? | ✓ | | <ul style="list-style-type: none"> - The Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required. |
| 12. | Landscape impact? | | ✓ | <ul style="list-style-type: none"> - The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective as no existing tree is observed within the Site and significant adverse impact to landscape resources is not anticipated. |

| | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u> |
|-----|----------------------------------|------------|-----------|----------------|
| 13. | Geotechnical impact | | ✓ | |
| 14. | Local objections conveyed by DO? | | ✓ | |

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

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

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

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

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 7.2.2020, the application was published for public inspection. During the statutory public inspection period, two public comments were received from Designing Hong Kong and an individual objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; land being still available within the “V” zone of She Shan Tsuen for Small House development; the proposed development will cause general degradation of the rural environment; and setting of undesirable precedent.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House development at the Site largely zoned “AGR” (about 99%) with a very minor portion zoned “V” (about 1%) on the OZP. The proposed development is not in line with the planning

intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view as agricultural infrastructure such as road access and water source are available; and the Site possesses potential for agricultural rehabilitation.

- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for She Shan Tsuen is 21 while the 10-year Small House demand forecast for the same village is 50. Based on the latest estimate by the Planning Department, about 1.55 ha of land (equivalent to 62 Small House sites) are available within the “V” zone concerned. As the proposed Small House footprint falls entirely within the ‘VE’ of She Shan Tsuen, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the southern fringe of She Shan Tsuen, is currently vacant and overgrown with grass. Cluster of village houses are situated to the immediate north of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of village houses and natural woodland (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as no existing tree is observed within the Site and significant adverse impact on landscape resources arising from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at She San Tsuen, which is located near the Site (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed Small House to the public sewer at his own cost and adequate space within the Site will be reserved for connection. Other relevant Government departments including C for T, CE/MN of DSD, CHE/NTE of HyD, PM(N) and H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the ‘VE’ of She Shan Tsuen and the proposed development located within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 71 Small Houses, such available land (about 1.55 ha or equivalent to 62 Small House sites) is capable to meet the 21 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving application for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is the subject of a previous application (No. A/NE-

LT/541) for Small House development submitted by the same applicant, which was approved by the Committee in 2015. Compared with the previous approved application (No. A/NE-LT/541), there is no change in the Small House footprint and major development parameters. Moreover, as advised by DLO/TP of LandsD, the Small House grant application submitted by the applicant is still under processing. Hence, sympathetic consideration might be given to the current application.

- 11.6 The Site is the subject of a previous application (No. A/NE-LT/541) which was approved by the Committee on 7.8.2015. There are seven similar applications in the vicinity of the Site and within the same "AGR" zone. Except for application No. A/NE-LT/301 rejected in 2003 mainly for the reason of being not able to be connected to the existing or planned sewerage system in the area, all other six applications were approved between 2004 and 2015. Applications No. A/NE-LT/316, 317, 419 and 421 were approved mainly for the reasons of generally complying with the Interim Criteria in that the Small House footprints fell entirely within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the concerned "V" zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system in the area. The other two applications (No. A/NE-LT/548 and 549) were approved by the Committee in 2015 mainly for reasons of being the subject of previously approved applications (No. A/NE-LT/316 and 317). The planning circumstances of the current application are similar to Applications No. A/NE-LT/548 and 549, which are the subject of previously approved applications.
- 11.7 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10 above, Government departments' comments and the planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.3.2024, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VII**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "Agriculture" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the "Village Type Development" ("V") zone of She Shan Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

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|-------------|--|
| Appendix I | Application form and attachment received on 24.1.2020 |
| Appendix Ia | Supplementary information received on 5.2.2020 |
| Appendix Ib | FI received on 3.3.2020 |
| Appendix II | Relevant revised Interim Criteria for Consideration of |

| | |
|--------------|---|
| | Application for NTEH/Small House in New Territories (promulgated on 7.9.2007) |
| Appendix III | Previous application |
| Appendix IV | Similar applications |
| Appendix V | Detailed comments from relevant Government departments |
| Appendix VI | Public comments |
| Appendix VII | Recommended advisory clauses |
| Drawing A-1 | Location 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 "V" zone |
| Plan A-3 | Aerial photo |
| Plan A-4 | Site photo |

PLANNING DEPARTMENT
MARCH 2020