

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/698

<u>Applicant</u>	Mr. CHAN Siu Wah
<u>Site</u>	Lot 699 S.B ss.1 in D.D. 19, She Shan Tsuen, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 124.7m 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>	“Village Type Development” (“V”) (about 79%) “Agriculture” (“AGR”) (about 21%)
<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, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ use within the “AGR” zone requires 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 Layout of the proposed Small House and the sewerage connection proposal are shown on **Drawings A-1** and **A-2**.

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant is eligible for Small House Grant.

- 1.4 The Site is the subject/part of the subject of two previous applications (No. A/NE-LT/380 and 575) submitted by the same applicant for the same use. The applications were approved by the Rural and New Town Planning Committee (the Committee) in 2008 and 2016, but the planning permissions have lapsed. Details of the previous applications are given in paragraph 5 below. Compared with the last application (No. A/NE-LT/575), the footprint and development parameters of the proposed Small House are generally the same under the current application.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachment received on (**Appendix I**) 4.5.2021
 - (b) further information (FI) received on 16.6.2021 (**Appendix Ia**) providing background information
(accepted and exempted from publication and recounting requirement)

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 the FI at **Appendices I and Ia** respectively are summarized as follows:

- (a) the applicant is an indigenous villager of She Shan Tsuen and he has no alternative site for the proposed Small House development;
- (b) there are village houses in the vicinity of the Site;
- (c) the applicant will appoint a contractor to connect the proposed Small House to the existing public sewerage network;
- (d) planning permission had been given under Application No. A/NE-LT/575 in 2016. In January 2021, the applicant was informed by Lands Department to submit an extension of time for commencement application. Nevertheless, as the planning permission already lapsed in June 2020, a fresh planning application for the proposed Small House is required; and
- (e) the contractor employed by him was severely injured in a traffic accident causing a delay in the preparation and submission of stormwater and drainage proposals to LandsD.

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 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 Applications

- 5.1 The Site is the subject/part of the subject of two previous applications (No. A/NE-LT/380 and 575) submitted by the same applicant for proposed Small House development, which were approved by the Committee in 2008 and 2016 respectively.
- 5.2 Application No. A/NE-LT/380 was approved with conditions by the Committee on 9.5.2008 mainly on the considerations that it complied with the Interim Criteria in that the proposed Small House was mostly within the “V” zone and village ‘environs’ (‘VE’) of She Shan Tsuen; there was a general shortage of land within the “V” zone in meeting the Small House demand at the time of consideration; and the proposed Small House would be able to be connected to the planned sewerage system. Nonetheless, construction of the proposed Small House could not commence as the public sewerage system was not available for connection at that time (the system concerned was eventually completed in 2017). The planning permission lapsed on 10.5.2012.
- 5.3 Subsequently, the same applicant submitted an application (No. A/NE-LT/575) with a smaller site area (reduced from 167.4m² to 124.7m²), a change in Small House configuration and northward shifting of the Small House footprint. The application was approved with conditions by the Committee on 24.6.2016 on similar considerations as detailed in paragraph 5.2 above and that it was the subject of a previously approved application. Nonetheless, the planning permission lapsed on 25.6.2020. Compared with the last previous application (No. A/NE-LT/575), there is no change in site area, Small House footprint and major development parameters under the current application.
- 5.4 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 14 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, of which seven were approved and seven were rejected.

- 6.2 Applications No. A/NE-LT/379, 391 and 484 were approved by the Committee between 2008 and 2013 mainly on the grounds of being in line with the Interim Criteria in that more than 50% of the Small House footprint was within the 'VE'; there was a general shortage of land within the "V" zone to meet the demand for Small House development at the time of consideration; and the proposed development was able to be connected to the planned sewerage system in the area. Despite the Board's adoption of a more cautious approach in approving applications for Small House development since August 2015, two applications (No. A/NE-LT/576 and 577) were approved by the Committee in 2016 mainly on sympathetic consideration as the sites were the subject of previously approved applications (No. A/NE-LT/379 and 391), and another application (No. A/NE-LT/587) was also approved by the Committee in 2016 mainly because only a very minor portion (about 7%) of the proposed Small House footprint fell outside the "V" zone.
- 6.3 Application No. A/NE-LT/397 was rejected by the Committee in 2009 mainly for the reasons of being not in line with the planning intention of "AGR" zone; and not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside both the "V" zone and the 'VE'. Subsequently, the same applicant submitted an application (No. A/NE-LT/414) which was approved by the Committee in 2011 mainly because the proposed Small House footprint had been revised so that more than 50% of it fell within the "V" zone; there was a general shortage of land within the "V" zone to meet the demand for Small House development at the time of consideration; and the proposed development was able to be connected to the planned sewerage system in the area.
- 6.4 For the remaining six rejected applications (No. A/NE-LT/490, 492, 493, 636, 667 and 683), they were rejected by the Committee/the Board upon review between 2013 and 2020 mainly on the grounds of being not in line with the planning intention of "AGR" zone; not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside the "V" zone and/or the 'VE'; the proposed development was not able to be connected to the existing or planned sewerage system; and/or the proposed development would have adverse landscape/drainage impact on the surrounding area. Applications No. A/NE-LT/636, 667 and 683 were also rejected because land was still available within the "V" zone for Small House development.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

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

- 7.1 The Site is:
- (a) currently vacant and hard paved;
 - (b) located at the northern fringe of She Shan Tsuen; and

(c) within the She Shan Tsuen Site of Archaeological Interest.

7.2 The surrounding areas are predominantly rural in character with village houses and active agricultural land. Village houses within the “V” zone of She Shan Tsuen are located to the immediate east and southeast of the Site.

8. **Planning Intentions**

8.1 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and 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.

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

9. **Comments from Relevant Government Departments**

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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the Small House - Application site	90% 79%	10% 21%	- The remaining portion of the Site and the Small House footprint fall within the “AGR” zone.
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. - 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		✓	<u>Land Required</u> - Land required to meet Small House demand in She Shan Tsuen: about 1.73 ha (equivalent to 69 Small House sites). The outstanding Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	demand)?			applications are 19 ² while the 10-year Small House demand forecast for the same village is 50.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the village concerned: about 1.53 ha (equivalent to 61 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as road access and water source is available; and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are preliminary rural in character with village houses and active agricultural land.
6.	Within Water Gathering Ground (WGG)?	✓		- The Director of Environmental 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	✓		- Approval conditions on connection to public sewers and provision of protective measures to WGG are required.

² Among the 19 outstanding Small House applications, 9 of them fall within the “V” zone and 10 straddle or outside the “V” zone. For those 10 applications straddling or outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
10.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no in-principle objection to the application.
11.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
12.	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 perspective as significant adverse impact on existing landscape resources is not anticipated.
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) DLO/TP, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CTP/UD&L, PlanD;

- (e) CE/MN, DSD;
- (f) CE/C, WSD;
- (g) DAFC;
- (h) D of FS;
- (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 comment on the application:

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

10. Public Comment Received During Statutory Publication Period

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

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site falling within an area partly zoned “V” (about 79%) and partly zoned “AGR” (about 21%) 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 agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as road access and water source is available and the Site possesses potential for agricultural rehabilitation.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for She Shan Tsuen is 19 while the 10-year Small House demand forecast for the same village is 50. Based on the latest estimate by the Planning Department, about 1.53 ha of land (equivalent to about 61 Small House sites) are available within the “V” zone concerned. As the 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 northern fringe of She Shan Tsuen, is currently vacant and hard paved. The proposed Small House is not incompatible with the surrounding area which is predominantly rural in character occupied by village houses and active agricultural land (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated.

- 11.4 The Site falls within the upper indirect WGG. The applicant has proposed to connect the proposed Small House to the existing public sewerage system (**Plan A-2a**). 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, H(GEO) of CEDD and D of FS have no objection to or no 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 “V” zone and ‘VE’ of She Shan Tsuen and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). Whilst land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 69 Small Houses, such available land (about 1.53 ha or equivalent to 61 Small House sites) is capable to meet the 19 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development since August 2015. 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 subject to previously approved applications (No. A/NE-LT/380 and 575) for Small House development submitted by the same applicant. Compared with the last previous application No. A/NE-LT/575 approved by the Committee in 2016, the footprint and development parameters of the proposed Small House are generally the same. Moreover, as advised by DLO/TP of LandsD, the Small House grant application has been approved pending the execution of licence documents. In view of the above, sympathetic consideration could be given to the current application.
- 11.6 As shown on **Plan A-2a**, there are nine similar applications for Small House development in close proximity to the Site. Of the five approved applications, three of them (No. A/NE-LT/379, 391 and 484) were approved before the Board’s adoption of a more cautious approach for Small House development in August 2015, and two applications (No. A/NE-LT/576 and 577) with previous approvals were approved in 2016 mainly on sympathetic consideration. For the four rejected applications (No. A/NE-LT/492, 636, 667 and 683), they were rejected by the Committee/the Board upon review between 2014 and 2020 mainly on the grounds of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside the “V” zone and ‘VE’; and/or the proposed development would have adverse landscape/drainage impact on the surrounding area; and/or land was still available within the “V” zone for Small House development. The planning circumstances of the current application are similar to approved applications No. A/NE-LT/576 and 577 which are covered by previous planning approvals.
- 11.7 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 25.6.2025, 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 VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference.
- (a) the proposed development is not in line with the planning intention of the "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 current 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 infrastructure and services.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, 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

Appendix I	Application form and attachment received on 4.5.2021
Appendix Ia	Further Information received on 16.6.2021
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Recommended advisory clauses
Drawing A-1	Location plan submitted by the applicant
Drawing A-2	Sewerage connection proposal 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 photos

**PLANNING DEPARTMENT
JUNE 2021**