

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/699

- Applicant** : Mr. CHUNG Michael Yuk Kwong represented by Thomas Tsang Surveyors Limited
- Site** : Lot 1598 S.A ss. 1 in D.D. 19, Ha Tin Liu Ha Tsuen, Lam Tsuen, Tai Po, New Territories
- Site Area** : About 145.7 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zonings** : “Agriculture” (“AGR”) (about 74.5%)
“Village Type Development” (“V”) (about 25.5%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Tin Liu Ha as confirmed by the respective Indigenous Inhabitant Representative (IIR)¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ use is a Column 2 use within the “AGR” zone requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

Total Floor Area	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

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

- 1.3 The uncovered area of the Site is proposed to be used as garden. Layout of the proposed Small House with proposed sewerage connection and the drainage proposal are shown on **Drawings A-1** and **A-2** respectively.
- 1.4 The Site is the subject of a previous application (No. A/NE-LT/413) submitted by the same applicant for the same use, which was rejected by the Board on review on 9.9.2011. Details of the previous application are given in paragraph 5 below. Compared with the previous application, the footprint and development parameters of the proposed Small House remain generally the same under the current application.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) application form with attachments received on 12.7.2021 (**Appendix I**)
 - (b) supplementary information received on 14.7.2021 providing clarification on the area of Small House footprint (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application as stated in Appendix 4 of the application form at **Appendix I** are summarized as follows:

- (a) the applicant is an indigenous villager of Tin Liu Ha village, who wishes to build a Small House on his own land to meet his genuine housing need. He is unable to purchase other land falling entirely within “V” zone due to financial difficulty;
- (b) about 30% of the proposed Small House falls within the “V” zone and the Site falls entirely within the village ‘environs’ (‘VE’) of Ha Tin Liu Ha;
- (c) the proposed development is compatible with the rural environment and would not be visually intrusive. Also, there is a track to the Site and no tree felling is required, hence it would not cause adverse traffic and environmental impacts on the surrounding areas;
- (d) the proposed development could be connected to the existing public sewerage system adjoining the Site; and
- (e) similar applications (No. A/NE-LT/108, 179, 344, 345, 346, 489 and 635) for Small House development within the “AGR” zone of Ha Tin Liu Ha and in the vicinity were approved by the Board.

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 Application

- 5.1 The Site is the subject of a previous application (No. A/NE-LT/413) submitted by the same applicant for the same use, which was rejected by the Board on review on 9.9.2011 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; not complying with the Interim Criteria in that there was no shortage of land in meeting the demand for Small House development in the “V” zone of Sheung Tin Liu Ha, Ha Tin Liu Ha and Ko Tin Hom at the time of consideration; and Small House should be developed within the “V” zone so as to concentrate village type development for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 5.2 Details of the 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 13 similar applications for Small House development in the vicinity of the Site within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000, of which five were approved and eight were rejected.
- 6.2 Three applications (No. A/NE-LT/344, 345 and 346) were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2005 and 2006 mainly on the considerations of being in line with the Interim Criteria in that the proposed 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/489 and 635) were approved by the Committee in 2013 and 2018 respectively mainly on sympathetic consideration as the application sites were the subject of previous approved applications (No. A/NE-LT/344 and 345) and there had been no major change in planning circumstances.
- 6.3 For the eight rejected applications, Applications No. A/NE-LT/570 and 578 were rejected by the Committee in 2016 mainly for reasons of being not in line

with the planning intention of the “AGR” zone and not complying with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and the proposed development was not able to be connected to the planned sewerage system in the area. Application No. A/NE-LT/578 was also rejected as it would cause adverse landscape impact. For the remaining six rejected cases covering two sites, Applications No. A/NE-LT/571, 618 and 640 covering the same site were rejected by the Committee/the Board on review between 2016 and 2018 mainly for reasons of being not in line with the planning intention of the “AGR” zone; there was no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and/or land being still available within the “V” zone for Small House development. Applications No. A/NE-LT/623, 666 and 679 covering the same site were rejected by the Committee/the Board on review between 2018 and 2019 for the same reasons of Applications No. A/NE-LT/571, 618 and 640.

- 6.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.
- 6.5 Regarding the two applications (No. A/NE-LT/108 and 179) mentioned by the applicant, they were approved by the Committee in 1997 and 1998 respectively before the first promulgation of the Interim Criteria.

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) currently vacant and mostly hard-paved;
 - (b) located at the northern fringe of Ha Tin Liu Ha Village; and
 - (c) accessible via a local track.
- 7.2 The surrounding areas are predominantly rural in character with a mix of village houses and agricultural land. The village cluster of Ha Tin Liu Ha is located about 60m to the south. An existing Small House, which is the subject of approved applications No. A/NE-LT/344 and 489 is located to the west of the Site. Another village house located to the northeast is the subject of an application (No. A/NE-LT/108) approved in 1997 before the promulgation of the Interim Criteria.

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? - Footprint of the Small House - Application site	23.2% 25.5%	76.8% 74.5%	- 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 Ha Tin Liu Ha (Plan A-1). - 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 Tin Liu Ha and Ko Tin Hom: about 3.43 ha (or equivalent to 137 Small House sites). The outstanding Small House applications are 7 ² while the 10-year Small House demand forecast for the same villages is 130. <u>Land Available</u> - Land available within the “V” zone to meet Small House demand: about 3.17 ha (equivalent to 127 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not

² Among the 7 outstanding Small House applications, 6 of them fall within the “V” zone and 1 with less than 5% of the site falling outside the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	“AGR” zone?			support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character with village houses, agricultural land and tree groups.
6.	Within 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. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Sewerage impact?	✓		
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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse impact on existing landscape resources is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objection received from 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) DAFC;
- (g) D of FS;
- (h) CE/C, WSD; and
- (i) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD).

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 Comments Received During Statutory Publication Period (Appendix VI)

On 20.7.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application mainly on the grounds of being not in line with the planning intention of the “AGR” zone; land being still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hung for Small House development; and a similar application was rejected by the Board on review on 2.2.2018.

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 “AGR” (about 74.5%) and partly zoned “V” (about 25.5%) 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. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 According to DLO/TP of LandsD’s records, the total number of outstanding Small House applications for Tin Liu Ha and Ko Tin Hom is 7 while the 10-year Small House demand forecast for the same villages is 130. Based on the latest estimate by the Planning Department, about 3.17 ha of land (equivalent to 127 Small House sites) are available within the “V” zone concerned. As the proposed Small House footprint falls entirely within the ‘VE’ of Ha Tin Liu Ha, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the northern fringe of Ha Tin Liu Ha, is currently vacant and mostly hard-paved. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of village houses and agricultural land (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective 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 and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at Tin Liu Ha Village (**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, 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 Ha Tin Liu Ha, and the proposed development located within WGG would be able to be connected to the public sewerage system. While land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 137 Small Houses, such available land (about 3.17 ha or equivalent to 127 Small House sites) is capable to meet the 7 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.

- 11.6 The Site is the subject of a previous application (No. A/NE-LT/413) submitted by the same applicant, which was rejected by the Board on review on 9.9.2011 mainly for the reasons of being not in line with the planning intention of the "AGR" zone and no shortage of land in meeting the demand for Small House development in the "V" zone. As there is no major change in planning circumstances since the rejection of the previous application, rejecting the current application is in line with the Board's previous decision.
- 11.7 As shown on **Plan A-2a**, there are nine similar applications covering five sites in close proximity to the Site. Of which, five were approved and four were rejected. For the five approved applications covering three sites, four of them (No. A/NE-LT/344, 345, 346 and 489) were approved before the Board's adoption of a more cautious approach in 2015. Subsequently, Application No. A/NE-LT/635 with previous approval (i.e. A/NE-LT/345) was approved in 2018 mainly on sympathetic consideration. For the four rejected applications (No. A/NE-LT/570, 571, 618 and 640) covering two sites, they were rejected by the Committee/ the Board on review between 2016 and 2018 mainly for the reasons of being not in line with the planning intention of the “AGR” zone; not complying with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and/or land being still available within the “V” zone for Small House development. The planning circumstances of the current planning application are similar to these rejected applications.
- 11.8 Regarding the public comments objecting to the application as detailed in paragraph 10 above, comments of Government departments 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 does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and
 - (b) land is still available within the “V” zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 10.9.2025, 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 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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.

14. Attachments

Appendix I	Application form and attachments received on 12.7.2021
Appendix Ia	Supplementary information received on 14.7.2021
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	Layout plan with proposed sewerage connection submitted by the applicant
Drawing A-2	Stormwater drainage 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
SEPTEMBER 2021