

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LT/705**

<b><u>Applicants</u></b>	: Ms. MUNG Tung Lai and Ms. ZHANG Lihua represented by Mr. PANG Hing Yeun
<b><u>Site</u></b>	: Lot 1717 in D.D. 19, Ha Tin Liu Ha, Lam Tsuen, Tai Po, New Territories
<b><u>Site Area</u></b>	: 28.8 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for house use)
<b><u>Plan</u></b>	: Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House (NTEH))

**1. The Proposal**

1.1 The applicants, owners of the application site (the Site), seek planning permission to build an NTEH at the Site (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH)’ within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently for agricultural and storage uses.

1.2 Details of the proposed NTEH are as follows:

Roofed-over Area	: 28.8m <sup>2</sup>
No. of Storeys	: 3
Building Height (BH)	: 8.23m
Total Floor Area (excluding balcony)	: 86.4m <sup>2</sup>

1.3 Layout of the proposed NTEH and the proposed drainage and sewerage connection are shown on **Drawing A-1**.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application form with attachments received on **(Appendix I)**

16.12.2021

- (b) Supplementary information received on 18.12.2021 (Appendix Ia)
- (c) Further Information (FI) received on 25.3.2022 (Appendix Ib) providing a revised drainage and sewerage connection proposal and Executive summary of the Natural Terrain Hazard Study
- (d) FI received on 25.4.2022 providing a revised drainage and sewerage connection proposal and a topographical plan (Appendix Ic)
- (e) FI received on 5.5.2022 providing responses to departmental comments (Appendix Id)

1.5 At the request of the applicants, the Rural and New Town Planning Committee (the Committee) agreed on 28.1.2022 to defer making a decision on the application for two months to allow more time for the applicants to address departmental comments. The FI submissions were received on 25.3.2022, 25.4.2022 and 5.5.2022. The application is scheduled for consideration by the Committee at this meeting.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in part 8 of the application form and FI submissions at **Appendices I, Ib to Id**, and summarized as follows:

- (a) the Site is an old schedule house lot and a house originally at the Site formed part of a village cluster in the vicinity. The applicants have the right to seek planning permission to rebuild the house;
- (b) the proposed development is not surrounded by trees and slopes, and there is no vehicular access to the Site. The proposed development would not cause adverse environmental, traffic, slope safety and visual impacts;
- (c) the Site was originally covered with vegetation but subsequently cleared due to development of the adjoining lot. The Site is currently used by the owner of the adjoining lot for agricultural and storage uses; and
- (d) the applicants would comply with relevant requirements raised by government departments.

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

The applicants are the sole “current land owners”. 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. The latest set of Interim Criteria which was promulgated on 7.9.2007 is at **Appendix II**.

**5. Previous Application**

There is no previous application covering the Site.

**6. Similar Applications**

- 6.1 There are 13 similar applications within the same “AGR” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Application No. A/NE-LT/682 was for two NTEHs (not Small House) development whereas the other 12 applications (No. A/NE-LT/344, 345, 346, 413, 489, 570, 571, 578, 618, 635, 640 and 699) were for Small House developments. Among which, six applications (No. A/NE-LT/344, 345, 346, 489, 635 and 682) covering four sites were approved by the Committee and seven (No. A/NE-LT/413, 570, 571, 578, 618, 640 and 699) covering four sites were rejected by the Committee or the Board on review.
- 6.2 Application No. A/NE-LT/682 for development of two NTEHs (each with roofed over area of 35.6m<sup>2</sup>) was approved by the Committee on 6.11.2020 mainly on consideration that the proposed NTEHs adjoining the “V” zone were not incompatible with the surrounding areas, sympathetic consideration was given as the Site had building status, and the application site falling within water gathering grounds (WGG) could be connected to the existing public sewerage system. Applications No. A/NE-LT/344, 345 and 346 for Small House developments were approved with conditions by the Committee in 2005 and 2006 mainly on the grounds of being in line with the Interim Criteria in that the proposed Small House footprint was entirely within the village ‘environs’ (‘VE’); general shortage of land in the concerned “Village Type Development” (“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. Subsequently, Applications No. A/NE-LT/489 and 635 submitted by the same applicant of A/NE-LT/344 and 345 were approved by the Committee in 2013 and 2018 respectively mainly on sympathetic consideration that the application site had previous approval.
- 6.3 For the seven rejected Small House applications, they were rejected by the Committee/the Board on review between 2011 and 2021. The reasons were mainly for being not in line with the planning intention of the “AGR” zone; land still available within the “V” zone for Small House development at the time of consideration; and adverse landscape/sewerage impact on surrounding areas.

6.4 Details of similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-2**.

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

7.1 The Site is:

- (a) occupied for agricultural and storage uses;
- (b) located at the southeastern fringe of the “V” zone of Ha Tin Liu Ha;
- (c) accessible via a footpath from a local track leading to She Shan Road; and
- (d) within the ‘VE’ of Ha Tin Liu Ha and upper indirect WGG.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, temporary structures, active/fallow agricultural land and tree groups. The village cluster of Ha Tin Liu Ha is situated about 50m to the west of the Site. A two-storey domestic structure has been erected on Lot 1716 to the immediate southwest of the Site without planning permission<sup>1</sup>.

**8. Planning Intention**

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

**9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) no objection to the application;
- (b) the Site is described as ‘house’ in the schedule attached to the Block Government Lease;

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<sup>1</sup> According to the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), a warning letter was issued to the lot owner of Lot 1716 in D.D. 19 on 26.7.2019 and the said warning letter was registered in the Land Registry on 2.10.2019. LandsD reserves the right to take further lease enforcement actions.

- (c) the Site falls entirely within the 'VE' of Ha Tin Liu Ha (**Plan A-1**), and there is no redevelopment application for the Site being processed by his office; and
- (d) should the application be approved, the applicants are required to submit an application for redevelopment to LandsD. If the redevelopment application is approved by LandsD acting in the capacity as land lord at its sole decision, such approval might be subject to such terms and conditions as imposed by LandsD.

#### Traffic

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

- (a) NTEH development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application only involves development of one NTEH can be tolerated on traffic grounds.

#### Environment

##### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) it is noted that the Site falls within WGG and there is existing public sewer available in the vicinity for connection. He has no in-principle objection to the application provided that the applicants will provide adequate sewer connection for disposal of sewage from the NTEH to the existing public sewer at their own costs and reserve adequate land for the sewer connection work; and
- (b) the Site falls within the consultation zones of Tai Po Water Treatment Works and Tai Po Tau Water Treatment Works. Based on the information provided, he has no objection to the application from chlorine risk perspective.

#### Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;

- (b) should the application be approved, an approval condition requiring the submission and implementation of drainage proposal for the Site should be imposed to ensure that the proposed development would not cause adverse drainage impact on the adjacent areas;
- (c) the applicants should have their own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. Any existing flow path affected should be re-provided. The applicants should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicants are required to maintain the drainage systems properly and rectify/modify the nearby existing/original drainage systems if they are found to be inadequate or ineffective to accommodate the additional runoff arisen from the development of the Site. The applicants shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the submitted sewerage connection proposal is considered acceptable. There are existing public sewers in the vicinity of Site, and no stud pipe is reserved for sewerage connection;
- (e) for works to be undertaken outside the lot boundary, prior consent from relevant lot owner(s), LandsD and/or Home Affairs Department should be sought; and
- (f) other advisory comments are set out in **Appendix V**.

#### Water Supply

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

- (a) no objection to the application;
- (b) the Site is located within upper indirect WGG and more than 30m away from the nearest stream. The applicants propose to connect the NTEH to public sewer and connection is feasible;
- (c) the applicants should also note the following comments:
  - (i) the foul water drainage system of the proposed NTEH can be connected to the public sewerage system in the area and the applicants shall connect the whole of the foul water drainage system to the public sewerage system upon its completion;
  - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG; and

- (iii) the applicants should submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed NTEH to the sewerage system via relevant private lots; and
- (d) for provision of water supply to the proposed development, the applicants may need to extend the inside services to the nearest suitable Government water mains for connection. The applicants should resolve any land matter (such as private lots) associated with the provision of water supply and should be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

#### Agriculture

##### 9.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) not support the application from agricultural point of view; and
- (b) the Site is a piece of abandoned land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries and possesses potential for agricultural rehabilitation.

#### Landscape

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

- (a) some reservations to the application from landscape planning perspective;
- (b) the Site is situated within Ha Tin Liu Ha Fung Shui Woodland, and in the area of settled valleys landscape character comprising farmlands, clusters of tree groups, woodland at the east and village houses within an area zoned "V" to the immediately west. Taking into account the approval of a similar application No. A/NE-LT/682, which is located to the west of the Site, the proposed development is considered not entirely incompatible with the surrounding areas;
- (c) the Site is currently occupied by farmland and a village house located at the southwest adjacent to the Site. Comparing with the aerial photo of 2017, vegetation clearance within and surrounding the Site is observed and an access road to the northwest of the Site was formed; and

- (d) there is concern that approval of the application may encourage more similar application within the “AGR” zone. The cumulative impact of such approval would further degrade the landscape quality of the environment, in particular the existing fung shui woodlands surrounding the Site.

#### Fire Safety

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

- (a) no comments on the application; and
- (b) the applicants are 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.

#### Geotechnical

##### 9.1.9 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- having considered information provided in FI submission, he has no further comment on the application.

9.2 District Officer/Tai Po, Home Affairs Department has no comment on the application.

## **10. Public Comment Received During Statutory Publication Period (Appendix IV)**

The application was published for public inspection. During the statutory publication period, one public comment submitted by an individual was received raising objection to the application mainly on the grounds of causing adverse traffic, environmental, ecological, fire hazard impacts and affecting villagers’ safety and living quality.

## **11. Planning Considerations and Assessments**

11.1 The application is for the proposed development of an NTEH (not Small House) at the Site zoned “AGR” on the OZP. The application 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, and DAFC does not support the application from agricultural point of view as agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries and possesses potential for agricultural



rehabilitation.

- 11.2 The Site is currently being occupied for agricultural and storage uses and is located southeastern fringe of the “V” zone of Ha Tin Liu Ha. The surrounding areas are predominantly rural in character with a mix of temporary structures, active/fallow agricultural land and tree groups. CTP/UD&L of PlanD has reservation on the application as there are farmland, tree groups and woodland in the area, but considers that the proposed NTEH is not incompatible with the surrounding areas as the Site is adjoining the “V” zone. Regarding the concern of vegetation clearance at the Site, the applicants claim that the Site was cleared due to the development of the adjoining lot.
- 11.3 Furthermore, there is exceptional circumstance which merits sympathetic consideration of the application as the Site has building status. DLO/TP of LandsD advises that, the Site is a lot held under Block Government Lease demised for house use, and he has no objection to the application. It has been the existing practice of the Board to take into account building status under the lease in considering planning application for house development. As each application would be considered on its individual merits, the approval of the current application would unlikely set an undesirable precedent for similar applications within the “AGR” zone.
- 11.4 The Site falls within the upper indirect WGG and the applicants have proposed to connect the proposed NTEH to the existing public sewerage system at Ha Tin Liu Ha (**Plan A-2**). CE/MN of DSD advises that the sewerage connection proposal submitted by the applicant is acceptable. Both DEP and CE/C of WSD have no objection to the application provided that the applicants shall connect the proposed NTEH to the public sewer at their own cost and adequate space within the Site will be reserved for connection. C for T considers that the application involving development of an NTEH only can be tolerated on traffic grounds. Other relevant government departments including D of FS and H(GEO), CEDD have no objection to or adverse comment on the application.
- 11.5 A similar application (No. A/NE-LT/682) for development of two NTEHs located to the southwest of the Site was approved by the Committee as detailed in paragraph 6.2 above as the Site has building status which could warrant a sympathetic consideration. The planning circumstances of the current application are similar to this approved application.
- 11.6 Regarding the public comment objecting to the application on the grounds as detailed in paragraph 10 above, government department’s 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 comment 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 20.5.2026, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- (a) the submission and implementation of a 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 V**.

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

- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("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) the application does not comply with the Interim Criteria in that the proposed development would have adverse landscape impact on the surrounding area.

**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 condition(s) and advisory clause(s), 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 applicants.

**14. Attachments**

**Appendix I**  
**Appendix Ia**

Application form and attachments  
Supplementary information received on 18.12.2021

<b>Appendix Ib</b>	FI received on 25.3.2022
<b>Appendix Ic</b>	FI received on 25.4.2022
<b>Appendix Id</b>	FI received on 5.5.2022
<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Public comment
<b>Appendix V</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photo

**PLANNING DEPARTMENT**  
**MAY 2022**