

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/725 and 726

<u>Applicants</u>	: Mr. CHAN Kwok Leung, David Mr. CHAN Fong Yau All represented by Mr. HUI Kwan Yee	(Application No. A/NE-LT/725) (Application No. A/NE-LT/726)
<u>Sites</u>	: Lots 702 S.A ss.1 and 704 S.A ss.1 Lots 702 S.A ss.2 and 704 S.A ss.2 All in D.D. 19, She Shan Tsuen, Lam Tsuen, Tai Po	(Application No. A/NE-LT/725) (Application No. A/NE-LT/726)
<u>Site Areas</u>	: About 158m ² About 117m ²	(Application No. A/NE-LT/725) (Application No. A/NE-LT/726)
<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>Zoning</u>	: “Agriculture” (“AGR”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites	

1. The Proposal

1.1 The applicants, indigenous villagers of She Shan Tsuen¹ of Tai Po Heung as confirmed by their respective Indigenous Inhabitant Representative, seek planning permission to build a NTEH (Small House) at each of the application sites (the Sites) (**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 permitted under the covering Notes)’ in the “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of each of the proposed Small House developments are as follows:

Total floor area	: 195.09m ²
No. 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 applicants’ eligibility of Small House grants have yet to be ascertained.

- 1.3 Layout of the proposed Small Houses and the proposed sewerage connection are shown on **Drawings A-1** and **A-2**.
- 1.4 In support of the applications, the applicants have submitted the following documents:
- (a) application forms with attachments received on 6.4.2022 (**Appendices Ia and Ib**)
 - (b) further information (FI) received on 12.4.2022 (**Appendices Ic and Id**) providing revised sewerage connection proposal with written consents of the affected lot owners *(accepted and exempted from publication and recounting requirements)*

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications stated in Part 8 of the application forms and FI are summarized as follows:

- (a) the Sites are vacant agricultural land;
- (b) the applicants have no alternative site for the proposed Small House developments; and
- (c) there are similar Small House developments in the vicinity of the Sites.

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 for the Sites.

6. Similar Applications

- 6.1 There are 10 similar applications for Small House development in the vicinity of the Sites within the same “AGR” zone since the first promulgation of the Interim Criteria, of which eight were approved and two were rejected.

- 6.2 Applications No. A/NE-LT/379, 380, 391 and 484 were approved with conditions 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 respective Small House footprint was within the village ‘environs’ (‘VE’); there was a general shortage of land within the “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. Notwithstanding that the Board’s adoption of a more cautious approach in approving applications for Small House development since August 2015, four applications (No. A/NE-LT/575, 576, 577 and 698) were approved with conditions by the Committee in 2016 and 2021 mainly on sympathetic consideration as the sites were the subject of previously approved applications (No. A/NE-LT/379, 380 and 391).
- 6.3 For the remaining two rejected applications (No. A/NE-LT/492 and 636), they were rejected by the Committee/the Board upon review between 2014 and 2018 mainly on the grounds of being not in line with the planning intention of “AGR” zone and the proposed development would have adverse landscape impact on the surrounding areas. Application No. A/NE-LT/636 was rejected also on ground that land was still available within the “V” zone for Small House development.
- 6.4 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

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

- 7.1 The Sites are:
- (a) vacant, covered with wild grass and generally flat;
 - (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 comprising village houses, farmlands and tree groups. Woodlands within the “Site of Special Scientific Interest” (“SSSI”) and “Conservation Area” (“CA”) zones are found to the further east and south of the Sites. The village cluster of She Shan Tsuen is situated about 30m to the southeast.

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 applications have 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 two Small Houses - Application sites	- -	100% 100%	- The Sites and the proposed Small House footprints fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the two Small Houses - Application sites	100% 100%	- -	- The Sites and the proposed Small House footprints fall entirely within the ‘VE’ of She Shan. - DLO/TP, LandsD has no objection to the applications.
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: about 1.68 ha (equivalent to 67 Small House sites). The outstanding Small House applications are 17 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 applications from agricultural development point of view as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character comprising village houses, farmland and tree groups.
6.	Within Water Gathering Ground (WGG)?	✓		- The Director of Environmental Protection (DEP) has no objection to the applications provided that the

² Among the 17 outstanding Small House applications, 8 of them fall within the “V” zone and 9 straddle or outside the “V” zone. For those 9 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>
7.	Sewerage impact?	✓		<p>applicants will provide adequate sewer connection for disposal of sewage from the Small Houses to the existing public sewer at their own costs and reserve adequate land for the sewer connection work.</p> <p>- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications as the Small Houses are proposed to be connected to the existing public sewerage system and connection is feasible.</p>
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<p>- The Director of Fire Services (D of FS) has no in-principle objection to the applications.</p>
10.	Traffic impact?	✓		<p>- The Commissioner for Transport (C for T) considers the applications only involving development of two Small Houses can be tolerated on traffic grounds.</p>
11.	Drainage impact?	✓		<p>- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint.</p> <p>- Approval condition on the submission and implementation of drainage proposal for the Sites is required.</p>
12.	Landscape impact?	✓		<p>- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations to the applications from the landscape planning perspective as there is concern that approval of the applications would further alter the landscape character of the area.</p>
13.	Geotechnical impact?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Archaeological impact?		✓	- The Executive Secretary of Antiquities and Monuments Office, Development Bureau (ES(AMO), DEVB) has no objection to the applications.
15.	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 IV**.

- (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) ES(AMO), DEVB.

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 V)**

The applications were published for public inspection. During the statutory public inspection period, one public comment for each of the applications was received from the same individual objecting to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of “AGR” zone and land being still available within the “V” zone of She Shan Tsuen for Small House development.

11. **Planning Considerations and Assessments**

11.1 The applications are for a proposed Small House development at each of the Sites zoned “AGR” on the OZP. The proposed developments are 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 applications from the 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 Sites possess potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.

- 11.2 The Sites, located to the north of She Shan Tsuen, are currently vacant, covered with grass and generally flat. The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character with village houses, farmlands and tree groups (**Plans A-2a and A-3**). CTP/UD&L of PlanD has some reservations to the applications from landscape planning perspective as there is concern that approval of the applications would further alter the landscape character of the area, especially the woodlands within “SSSI” and “CA” zones to the further east and south.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/TP of LandsD, the number of outstanding Small House for She Shan is 17 while the 10-year Small House demand forecast is 50. Based on PlanD’s latest estimate, about 1.53 ha of land (equivalent to 61 Small House sites) is available within the “V” zone concerned. While the amount of land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in considering applications for Small House development in August 2015. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, the Board has put more weighting on the number of outstanding Small House applications as provided by LandsD. It is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 11.4 The Sites fall within the upper indirect WGG and the applicants have proposed to connect the proposed Small Houses to the existing public sewerage system at She Shan Tsuen, which is located near the Sites (**Plan A-2a**). DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost and adequate space within the Sites will be reserved for connection. CE/MN of DSD has no in-principle objection to the applications on condition that the applicants should submit and implement drainage proposal for the Sites. Other relevant government departments including C for T, CHE/NTE of HyD, D of FS and ES(AMO) of DEVB have no objection to or adverse comment on the applications.
- 11.5 As shown on **Plan A-2a**, there are 10 similar applications covering six sites in close proximity to the Sites. Of which, eight were approved and two were rejected. For the eight approved applications covering four sites, four of them (Applications No. A/NE-LT/379, 380, 391 and 484) were approved before the Board’s adoption of a more cautious approach in 2015. Subsequently, four applications (No. A/NE-LT/575, 576, 577 and 698) with previous approvals were approved in 2016 and 2021 mainly on sympathetic consideration, which were not applicable to the subject applications. For the two rejected applications (No. A/NE-LT/492 and 636) covering two sites, they were rejected by the Committee/the Board on review between 2014 and 2018 mainly for the reasons of being not in line with the planning intention of the “AGR” zone; the proposed development would have adverse landscape impact on the surrounding area; and/or land being still available within the “V” zone for Small House development. The planning circumstances of the current planning applications are similar to Application No. A/NE-LT/636 in that land being still available within the “V” zone for Small House development.

- 11.6 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10 above, government departments' comments and the planning assessments and considerations 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, Planning Department does not support the applications for the following reasons:

- (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) 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.

- 12.2 Alternatively, should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 20.5.2026, and after the said date, the permissions 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

- the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

- 13.3 Alternatively, should the Committee decide to approve the applications, Members are invited to consider the approval condition and advisory clauses, if any, to be attached to the permissions, and the date when the validity of the permissions should expire.

14. Attachments

Appendix Ia	Application form with attachments received on 6.4.2022 (Application No. A/NE-LT/725)
Appendix Ib	Application form with attachments received on 6.4.2022 (Application No. A/NE-LT/726)
Appendix Ic	FI received on 12.4.2022 (Application No. A/NE-LT/725)
Appendix Id	FI received on 12.4.2022 (Application No. A/NE-LT/726)
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawings A-1 to 2	Location plans and sewerage connection plans submitted by the applicants
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
MAY 2022**