

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/727

Applicant : Mr. CHUNG Kwai Ping

Site : Lot 1740 in D.D. 8, Chuen Shui Tseng, Lam Tsuen, Tai Po, New Territories

Site Area : About 39.95 m²

Lease : New Grant described as ‘House’ use

Plan : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH))

1. The Proposal

1.1 The applicant, owner of the application site (the Site), seeks planning permission to build a 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 vacant.

1.2 Details of the proposed NTEH are as follows:

Total Floor Area	:	119.85m ²
No. of Storeys	:	3
Building Height	:	8.23m
Roofed-over Area	:	39.95m ²

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

1.4 In support of the application, the applicant has submitted the application form with attachments on 2.6.2022 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the proposed NTEH will make good use of scarce land resources as the Site is currently idled; and
- (b) the applicant would like to build a NTEH on his lot to meet the housing needs of himself and his family.

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. 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 Application

There is no similar application for NTEH (not Small House) development within the same “AGR” zone in the vicinity of the Site.

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

7.1 The Site is:

- (a) vacant, fenced off, covered with shrubs and generally flat;
- (b) located at the southwestern fringe of Chuen Shui Tseng;
- (c) only accessible by footpath; and
- (d) within the ‘VE’ of Chuen Shui Tseng and upper indirect WGG.

7.2 The surrounding areas are predominantly rural in character comprising village houses, temporary structures, farmlands and tree clusters. The village cluster of Chuen Shui Tseng is situated about 40m to the northeast.

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 held under New Grant and described as ‘House’ use; and
- (c) a redevelopment application at the Site was received by his office and is under processing.

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):

- no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the NTEH to the existing public sewer at his own costs and reserve adequate land for the sewer connection work.

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 it would not cause adverse drainage impact on the adjacent areas;
- (c) the proposed development should have its own stormwater collection and discharge system to cater for the runoff generated within the Site and overland flow from surrounding the Site. Any existing flow path affected should be re-provided. The applicant should neither obstruct overland flow nor adversely affect the existing natural streams, village drains, ditches and the adjacent areas. The applicant is 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 applicant shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure or ineffectiveness of the modified drainage systems caused by his works;
- (d) there are public sewers maintained by DSD in the vicinity but the feasibility of sewerage connection is subject to the invert level of discharge connection pipe leading from the Site. The applicant shall demonstrate the technical feasibility of sewerage connection. Should the applicant choose to dispose of the sewage of the proposed NTEH through other means, views and comments from Environmental Protection Department should be sought;
- (e) the applicant shall provide written consent(s) from relevant lot owner(s) and/or LandsD's permission for laying new drains/channels and/or modifying/upgrading existing ones outside the Site or on government land (where required); and
- (f) the cost and works or drainage and sewerage connection as well as future maintenance responsibility shall be borne by the applicant.

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 nearby stream course. The applicant proposes to connect the NTEH to public sewerage system;
- (c) the applicant 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 applicant shall connect the whole of the foul water drainage system to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG; and
 - (iii) the applicant shall 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 applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant should resolve any land matter (such as private lots) associated with the provision of water supply and shall 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) the Site is a piece of abandoned land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as footpath and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (b) as the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Landscape

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

- (a) no objection to the application from landscape planning perspective;

- (b) the Site is located in an area of settled valley landscapes character comprising village houses, temporary structures, farmlands and clusters of tree groups. The proposed NTEH under this application is considered not incompatible with its surrounding environment;
- (c) the Site is currently vacant and covered with self-seeded vegetation. Some whip trees of common species are located at the southeastern portion within the Site. A *Litchi chinensis* (荔枝) is located at the southeast outside the Site with tree crown slightly encroaching into the site boundary (**Plan A-2**). As the existing trees are common species, significant adverse impact on existing landscape resources arising from the proposed use within the Site is not anticipated; and
- (d) the applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant should seek approval for any proposed tree works from relevant departments prior to commencement of the works.

Fire Safety

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

- (a) no in-principle objection on the application; and
- (b) the applicant is 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.

9.2 The following government departments have no comment on the application:

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

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

On 10.6.2022, 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 not being in line with the planning intention of the “AGR” zone; land being still available within the “V” zone of Chuen Shui Tseng for village house development; setting of an undesirable precedent; concerns about traffic congestion, environmental pollution and fire risk; and security and living quality of the affected villagers.

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. DAFC does not support the application from agricultural point of view as agricultural activities are active in the vicinity and agricultural infrastructures such as footpath 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 vacant, covered with shrubs and is located at the southwestern fringe of Chuen Shui Tseng. The surrounding areas are predominantly rural in character comprising village houses, temporary structures, farmlands and tree clusters (**Plans A-2 and A-3**). CTP/UD&L of PlanD has no objection on the application from the landscape planning perspective as the proposed NTEH is considered not incompatible with its surrounding environment. Besides, the trees located at the southeastern portion of the Site are common species, significant adverse impact on existing landscape resources arising from the proposed NTEH within the Site is not anticipated.
- 11.3 According to assessment criteria (c) under the Interim Criteria (**Appendix II**), there is exceptional circumstance which merits sympathetic consideration of the application as the Site has building status. As advised by DLO/TP of LandsD, the Site is a lot held under New Grant described as ‘House’ use, and he has no objection to the application. Besides, there is a redevelopment application under processing by his office. 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 applicant has proposed to connect the proposed NTEH to the existing public sewerage system at Chuen Shui Tseng, which is located near the Site (**Plan A-2**). CE/MN of DSD has no in-principle objection to the application on condition that the applicant should submit and implement drainage proposal for the Site. Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed NTEH 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, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the application.
- 11.5 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10 above, government departments’ comments and the planning considerations and 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 29.7.2026, 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

- 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 IV**.

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

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 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 attachments
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	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Sewerage connection plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**