

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

**APPLICATION NO. A/NE-LT/733**

- Applicant** : Mr. SHAM Man Tong represented by Cheer Excel Engineering Limited
- Site** : Lot 311 in D.D. 8, Tai Yeung Che Village, Lam Tsuen, Tai Po
- Site Area** : About 161.5m<sup>2</sup>
- 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 78%)  
“Village Type Development” (“V”) (about 22%)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Shui Wo Village<sup>1</sup> as confirmed by the Indigenous Inhabitant Representative, 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, ‘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 the proposed Small House development are as follows:

Total floor area	:	195.09m <sup>2</sup>
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

1.3 The uncovered area of the Site is proposed for landscaping use. Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawings A-1** and **A-2**.

1.4 In support of the application, the applicant has submitted the following documents:

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

- (a) Application Form with attachments received on **(Appendix Ia)** 14.7.2022
- (b) Further Information (FI) received on 9.11.2022, **(Appendix Ib)** 10.11.2022 and 11.11.2022
- (c) FI received on 5.12.2022 **(Appendix Ic)**

1.5 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application on 9.9.2022.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application stated in Part 8 of the Application Form at **Appendix Ia** are summarized as follows:

- (a) the proposed development is compatible with the surrounding areas which are mainly occupied by village houses. The application is for an extension of the "V" zone to the boundary of the Site;
- (b) the proposed development will convert the derelict land into a more practical and economical residential use without affecting the rural character of the area which is beneficial to the community; and
- (c) the proposed development will not cause adverse environmental impact on the surroundings.

## **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 promulgated on 7.9.2007 is at **Appendix II**.

## **5. Previous Application**

There is no previous application at the Site.

## **6. Similar Applications**

6.1 There are three similar applications for Small House development in the vicinity of the Site in the same "AGR" zone since the first promulgation of the Interim Criteria, all of which were rejected.

- 6.2 Applications No. A/NE-LT/474, 536 and 554, with the latter two covering one site, were rejected by the Committee/the Board on review between 2014 and 2016 mainly on the ground of being not in line with the planning intention of the “AGR” zone. In addition, application No. A/NE-LT/474 was also rejected on the ground that the applicant failed to demonstrate that the proposed development would not cause adverse impact on landscape resources and water quality in the surrounding areas. Application No. A/NE-LT/536 was rejected on the ground of not being able to be connected to the planned public sewers in the area and the applicant failed to demonstrate that the proposed development located within the upper indirect Water Gathering Ground (WGG) would not cause adverse impact on the water quality in the area. Application No. A/NE-LT/554 was rejected on review on the ground that land was still available within the “V” zone of Tai Mong Che and Ma Po Mei for Small House development.
- 6.3 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-2a**.

## **7. The Site and Its Surrounding Area (Plans A-1 to A-4)**

- 7.1 The Site is:
- (a) vacant and generally flat;
  - (b) located at the northeastern fringe of Tai Mong Che but entirely within the village ‘environs’ (‘VE’) of Tai Mong Che;
  - (c) along a natural watercourse to its northwest;
  - (d) accessible via a footpath leading to Tai Yeung Che Road; and
  - (e) located within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character comprising farmland, village houses, tree groups and woodland. Tai Yeung Che Road is about 100m to the west of the Site. Village clusters are found about 30m to the west inside the “V” zone of Tai Mong Che.

## **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	29%  22%	71%  78%	- The Site and the proposed Small House footprint fall mainly within the “AGR” zone and partly within “V” zone.
2.	Within ‘VE’?  - Footprint of the Small House  - Application site	100%  100%	-  -	- The Site and the proposed Small House footprint fall entirely within the ‘VE’ of Tai Mong Che.
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 Ma Po Mei and Tai Mong Che: about 5.7 ha (equivalent to 229 Small House sites). The outstanding Small House applications are 29 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 200.  <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.06 ha (or equivalent to 82 Small House sites) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural development point of view as the Site possesses potential for agricultural rehabilitation.

<sup>2</sup> Among the 29 outstanding Small House applications, 18 of them fall within the “V” zone and 11 straddle or outside the “V” zone. For those 11 applications straddling or being outside the “V” zone, 2 of them have obtained valid planning approvals from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character comprising farmland, village houses, tree groups and woodland.
6.	Within Water Gathering Ground (WGG)?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that the feasibility of sewerage connection is subject to the site formation level.  - The Director of Environmental Protection (DEP) and the Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) does not support/ has reservation on the application as there is insufficient information to demonstrate that the proposed Small House is able to be connected to public sewerage system in the area so that the feasibility of public sewerage connection cannot be ascertained.
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) considers that Small House application should be confined within the “V” zone as far as possible. Notwithstanding, he considers that the application only involving development of a Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓		- The CE/MN, DSD considers that an approval condition on the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				submission and implementation of drainage proposal for the Site 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 the landscape resources arising from the proposed Small House 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 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; and
- (h) CE/C, WSD.

9.3 The following government departments have no objection to/no adverse comment on the application:

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

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

The application was published for public inspection. During the statutory public inspection period, a public comment was received from an individual objecting to the application mainly on the grounds that the proposed development will cause adverse traffic, environmental and ecological impacts; affect villagers' safety and living quality; and increase risk of fire hazard.

## 11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site mainly zoned “AGR” and partly zoned “V” 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 footpath 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 The Site, located at the northeastern fringe of Tai Mong Che, is currently vacant and generally flat. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising farmland, village houses, tree groups and woodland (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse impact on the landscape resources arising from the proposed development is not anticipated.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to the DLO/TP, LandsD, the number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 29 while the 10-year Small House demand forecast for the same villages is 200. Based on PlanD’s latest estimate, about 2.06 ha of land (equivalent to 82 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 formally adopted a more cautious approach in considering 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, 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 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 Tai Mong Che, which is located about 100m to the west of the Site (**Plan A-2a**). CE/MN of DSD advises that the feasibility of sewerage connection is subject to the site formation level. DEP and CE/C of WSD does not support/has reservation on the application as there is insufficient information to demonstrate that the proposed Small House is able to be connected to public sewerage system in the area. CE/MN of DSD considers that a condition on submission and implementation of a drainage proposal for the Site is required. Other relevant government departments including DO(TP) of HAD, D of FS, C for T and CHE/NTE of HyD have no objection to or adverse comments on the application.

- 11.5 As shown on **Plan A-2a**, there are three similar applications for Small House development (No. A/NE-LT/474, 536 and 554) covering two sites in close proximity to the Site, all of which were rejected by the Committee/the Board on review between 2014 and 2016 mainly on the grounds of being not in line with the planning intention of the “AGR” zone. Applications No. A/NE-LT/474 and 536 were also rejected on the grounds of adverse landscape and water quality impacts as detailed in paragraph 6.2 above. Application No. A/NE-LT/554 was rejected on review on ground that land was still available within the “V” zone of Tai Mong Che and Ma Po Mei for Small House development. The planning circumstances of the current application are similar to those of the rejected applications on the grounds of being not in line with the planning intention of the “AGR” zone and that land was still available within the “V” zone for Small House development.
- 11.6 Regarding the public comment objecting to the application on the grounds as detailed in paragraph 10, 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 comment mentioned in paragraph 10, 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 “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;
  - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there is insufficient information to demonstrate that the proposed development located within water gathering ground would be able to be connected to the existing or planned sewerage system and would not cause adverse impact on the water quality in the area; and
  - (c) land is still available within the “Village Type Development” (“V”) zone of Tai Mong Che and Ma Po Mei 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 23.12.2026, 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 VI**.

**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 condition 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 Ia	Application form and attachment received on 14.7.2022
Appendix Ib	FI received on 9.11.2022, 10.11.2022 and 11.11.2022
Appendix Ic	FI received on 5.12.2022
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 comment
Appendix VI	Recommended advisory clauses
Drawings A-1 and A-2	Layout plan and sewerage connection plan 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