

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/736 and 737

- Applicant** : Mr. CHUNG Kwai Ping
- Sites** : Lot 1945 (Application No. A/NE-LT/736)
Lot 1947 (Application No. A/NE-LT/737)
all in D.D. 19, Chuen Shui Tseng, Lam Tsuen, Tai Po, New Territories
- Site Areas** : About 56.22 m² (Application No. A/NE-LT/736)
About 47.12 m² (Application No. A/NE-LT/737)
- Lease** : Block Government Lease (demised for 'House' use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zoning** : "Agriculture" ("AGR")
- Applications** : Proposed House (New Territories Exempted House (NTEH)) on each of the application sites

1. The Proposals

- 1.1 The applicant, owner of the application sites (the Sites), seeks planning permissions to build a NTEH on each of 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)' within the "AGR" zone requires planning permission from the Town Planning Board (the Board). The Sites are currently vacant.
- 1.2 Details of each of the proposed NTEH are as follows:
- | | <u>No. A/NE-LT/736</u> | <u>No. A/NE-LT/737</u> |
|--------------------|------------------------|------------------------|
| Total Floor Area : | 168.66m ² | 141.36m ² |
| No. of Storeys : | 3 | 3 |
| Building Height : | 8.23m | 8.23m |
| Roofed-over Area : | 56.22m ² | 47.12m ² |
- 1.3 Layout of the proposed NTEHs and the proposed sewerage connections are shown on **Drawings A-3 and A-6**.
- 1.4 In support of the applications, the applicant has submitted the application forms with attachments on 6.9.2022 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the applications as detailed in Part 8 of the application forms at **Appendix I** are summarized as follows:

- (a) the proposed NTEHs will make good use of scarce land resources as the Sites are currently idled; and
- (b) the applicant would like to build a NTEH on each of his lots to meet the housing needs of 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 Sites.

6. Similar Application

- 6.1 There is one similar application for NTEH (not Small House) development within the same “AGR” zone in the vicinity of the Sites (**Plan A-2**).
- 6.2 The application (No. A/NE-LT/727) also submitted by the current applicant was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 29.7.2022 mainly on the grounds of complying with the Interim Criteria in that sympathetic consideration of the application was given to the site as it had building status; and the proposed NTEH was able to be connected to the existing public sewerage system. Details of the above similar application is summarized at **Appendix III** and its location is shown on **Plan A-2**.

7. The Sites and Their Surrounding Areas (Plans A-1 to A-4)

7.1 The Sites are:

- (a) vacant, fenced off, covered with shrubs and generally flat;
- (b) located at the southwestern fringe of Chuen Shui Tseng;

- (c) only accessible via a footpath; and
- (d) within the village ‘environs’ (‘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 applications 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 applications;
- (b) the Sites are held under Block Government Lease and demised for ‘House’ use; and
- (c) currently no application for NTEH rebuilding at the Sites are being processed by his office.

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 applications only involve development of two NTEHs can be tolerated on traffic grounds.

Environment

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

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

Drainage

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

- (a) no in-principle objection to the applications from public drainage viewpoint;
- (b) should the applications be approved, an approval condition requiring the submission and implementation of drainage proposal for the Sites should be imposed to ensure that it would not cause adverse drainage impact on the adjacent areas; and
- (c) the applicant should note the advisory comments 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 applications;
- (b) the Sites are located within upper indirect WGG and more than 30m away from the nearby stream course. The applicant proposes to connect the NTEHs to public sewerage system; and
- (c) the applicant should note the advisory comments in **Appendix V**.

Agriculture

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

- (a) the Sites are currently two pieces of abandoned land. Agricultural activities are active in the vicinity, and agricultural infrastructures such as footpath and water source are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (b) as the Sites possess potential for agricultural rehabilitation, the applications are 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 applications from landscape planning perspective;
- (b) the Sites are located in an area of settled valley landscapes character comprising village houses, temporary structures, farmlands and clusters of tree groups; and
- (c) the Sites are currently vacant and covered with self-seeded vegetation. Significant adverse impact on existing landscape resources arising from the proposed use within the Sites is not anticipated.

Fire Safety

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

- (a) no in-principle objection on the applications; 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 IV)

On 16.9.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to each of the applications mainly on the grounds of 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 applications are for the proposed development of an NTEH (not Small House) on each of the Sites zoned “AGR” on the OZP. The applications 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 agricultural point of view as agricultural activities are active in the vicinity and agricultural infrastructures such as footpath and water source are available. The Sites can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries and possesses potential for agricultural rehabilitation.

- 11.2 The Sites are currently vacant, covered with shrubs and 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 applications from landscape planning perspective as significant adverse impact on existing landscape resources arising from the proposed NTEHs within the Sites 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 applications as the Sites have building status. As advised by DLO/TP of LandsD, the Sites are lots held under Block Government lease demised as 'House' use, and he has no objection to the applications. 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, approval of the current applications would unlikely set an undesirable precedent for similar applications within the "AGR" zone.
- 11.4 The Sites fall within the upper indirect WGG and the applicant has proposed to connect the proposed NTEHs to the existing public sewerage system at Chuen Shui Tseng, which is located near the Sites (**Plan A-2**). CE/MN of DSD has no in-principle objection to the applications on condition that the applicant should submit and implement drainage proposal for the Sites. Both DEP and CE/C of WSD have no objection to the applications provided that the applicant shall connect the proposed NTEHs to the public sewer at his own cost and adequate space within the Sites 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 applications.
- 11.5 As shown on **Plan A-2**, there is one similar application (No. A/NE-LT/727) for NTEH (not Small House) development within the same "AGR" zone in the vicinity of the Sites. The planning circumstances of the current applications are similar to it in that the Sites have building status; and the proposed NTEHs are able to be connected to the existing public sewerage system.
- 11.6 Regarding the public comments objecting to the applications 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 applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 28.10.2026, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are 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 V**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reason for rejection is suggested for Members' reference:
- the proposed developments are 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 submissions for a departure from the planning intention.

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

14. Attachments

Appendix I	Application forms 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	Similar application
Appendix IV	Public comments
Appendix V	Recommended advisory clauses
Drawings A-1 to A-6	Layout plans and sewerage connection plans 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
OCTOBER 2022**