

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/747

<u>Applicant</u>	Mr. CHUNG Danny Chi Hoo (鍾志豪) represented by Mr. HUI Kwan Yee
<u>Site</u>	Lot 561 S.F ss.2 S.C in D.D. 8, Sha Pa, Lam Tsuen, Tai Po
<u>Site Area</u>	About 131m ²
<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”) (about 81%) and “Village Type Development” (“V”) (about 19%)
<u>Applications</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Sha Pa village as confirmed by the Indigenous Inhabitant Representatives (IIRs)¹, seek 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 each of the proposed Small House developments are as follows:

Total floor area	:	167.1m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	55.7m ²

1.3 Layout of the proposed Small House and the proposed sewerage connection are shown in **Drawing A-1**.

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

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

- (a) application form and attachments received on **(Appendix I)** 5.12.2022; and
- (b) further information (FI) received on 26.1.2023. **(Appendix Ia)**

2. Justifications from the Applicants

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

- (a) the Site is currently an abandoned agricultural land. The proposed Small House is compatible with the surrounding environment with some approved Small Houses in the vicinity; and
- (b) there is no other land available for the proposed Small House development.

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

The applicant is 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 promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Applications

There is no previous application for the Site.

6. Similar Applications

- 6.1 There are 28 similar applications for Small House development in the vicinity of the Sites within the same “AGR” zone, of which 27 of them were submitted after the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**).
- 6.2 11 applications (No. A/NE-LT/226, 240, 249, 263, 439 and 740-745) were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2000 and 2022, mainly on consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the Village ‘Environs’ (‘VE’) and there was a general shortage of land to meet the demand for Small House development of

the concerned “V” zone at the time of consideration. 14 applications (No. A/NE-LT/706-712 and 718-724) were approved mainly on sympathetic consideration that the sites were part of the subject of previous applications (No. A/NE-LT/226, 240, 249 and 439) for Small House development submitted by the same applicants, which were approved between 2000 and 2012.

- 6.3 The remaining three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee in 2013 mainly for reasons of being not in line with the planning intention of the “AGR” zone; and not in compliance with the Interim Criteria in that the applicants failed to demonstrate that the proposed development would not cause adverse impact on the water quality in the area.
- 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 to A-4)

7.1 The Site is:

- (a) vacant, generally flat and covered with self-seeded vegetation;
- (b) accessible via a footpath leading to Lam Kam Road across Lam Tsuen River; and
- (c) within upper indirect water gathering grounds (WGG) and the Sha Pa Site of Archaeological Interest.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with village houses, farmlands, grassland and tree clusters; and
- (b) Lam Tsuen River is located to the south of the Site; and
- (c) across the river to the southwest is the village proper of Ma Po Mei.

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 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	36% 19%	64% 81%	- The Site and the proposed Small House footprint fall within the “AGR” and “V” zones.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the footprint of the proposed Small House fall within the tentative ‘VE’ boundary (Plan A-2a) of Sha Pa Village, which was incorporated into the list of recognized villages for the purpose of Small House grant in 1996.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House applications?		✓ ✓	<u>Land Required</u> - Land required to meet Small House demand in Shui Wo (including Sha Pa) ² : about 5.73 ha (equivalent to 230 Small House sites). The outstanding Small House applications are 40 ³ while the 10-year Small House demand forecast for the same villages is 190. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 0.94 ha (equivalent to 36 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does

² “Shui Wo (including Sha Pa)” is considered as one of the recognized villages in the Tai Po District under the “List of Recognized Villages under the New Territories Small House Policy” by LandsD. Outstanding Small House applications and 10-year Small House demand of Sha Pa Village and Shui Wo Village are therefore considered together.

³ Among the 40 outstanding Small House applications, 13 of them fall within the “V” zones of Sha Pa and Shui Wo and 27 straddle or outside the “V” zones. For those 27 applications straddling or outside the “V” zone, 19 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	“AGR” zone?			not support the application from agricultural 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, farmlands, grassland and tree clusters.
6.	Within Water Gathering Ground (WGG)?	✓		- Director of Environmental Protection (DEP) has no objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the Small House to the existing public sewer at their own costs and reserve adequate land for the sewer connection work. - Chief Engineer / Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the Small House is proposed to be connected to the existing public sewerage system.
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)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application, provided that the proposed Small House would not encroach on any existing or planned EVA.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that such type of Small House development

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>should be confined within the “V” zone as far as possible.</p> <p>- Notwithstanding the above, it is considered that the application can be tolerated on traffic grounds.</p>
11.	Drainage impact?	✓		<p>- Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint.</p> <p>- Approval condition on the submission and implementation of drainage proposal for the Site is required.</p>
12.	Landscape impact?		✓	<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse impact on the landscape resources arising from the proposed Small House is not anticipated.</p>
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) CE/C, WSD;

- (g) DAFC; and
- (h) D of FS.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) District Officer (Tai Po), Home Affairs Department; and
- (c) Executive Secretary of Antiquities and Monuments Office, Development Bureau.

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

The application was published for public inspection. During the statutory public inspection period, two individuals object to all application mainly on the following grounds:

- (a) the proposed development is overcrowded, which will cause traffic congestion problems and adverse impacts on environment, fire hazard, security, ecology and quality of life; and
- (b) land is still available within the “V” zone of Sha Pa for Small House development.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site zoned “AGR” and “V” on the OZP. The planning intention of the “AGR” zone 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 Site possesses potential for agricultural rehabilitation.
- 11.2 The Site is located entirely within the tentative ‘VE’ boundary of Sha Pa Village and is vacant and covered with self-seeded vegetation. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character occupied by village houses, farmlands and tree clusters. CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as significant adverse impact on the landscape resources arising from the proposed developments is not anticipated.
- 11.3 Regarding the Interim Criteria, according to DLO/TP of LandsD, the number of outstanding Small House application for Shui Wo (including Sha Pa) is 40 while the 10-year Small House demand forecast is 190. Based on PlanD’s latest estimate, about 0.94ha of land (equivalent to 36 Small House sites) is available within the “V” zones concerned. The amount of land available within the “V” zones (**Plan A-2b**) is insufficient to fully meet the future Small

House demand and the outstanding Small House applications. As such, the application is considered generally in compliance with the Interim Criteria.

- 11.4 The Site falls within the upper indirect WGG and the applicant has proposed to connect the proposed Small Houses to the existing public sewerage system at Sha Pa Village, which is located near the Site. DEP and CE/C of WSD have no objection on the application. 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 Site. 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 As shown in **Plan A-2a**, there are 28 similar applications in close proximity to the Site. Five of which (No. A/NE-LT/226, 240, 249, 263 and 439) were approved before the Board's formal adoption of a more cautious approach in approving applications for Small House development. Subsequently, 14 applications (No. A/NE-LT/706-712 and 718-724) were approved in 2022 on sympathetic consideration that the sites were part of the subject of previous applications for Small House development submitted by the same applicants. The remaining six applications (No. A/NE-LT/740-745) were approved in 2022 mainly on consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the 'VE' and there was a general shortage of land to meet the demand for Small House development of the concerned "V" zone. Three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee in 2013 as stated in paragraph 6.3. The planning circumstances of the current application is similar to the application No. A/NE-LT/740-745 in terms of general shortage of land for Small House development in the "V" zone.
- 11.6 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10, government departments' 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 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 3.2.2027, 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 conditions 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**.

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

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.

13. Decision Sought

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

14. Attachments

Appendix I	Application form and attachment received on 5.12.2022
Appendix Ia	FI received on 26.1.2023
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	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
FEBRUARY 2023**