

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

**APPLICATIONS NO. A/NE-LT/750 to 753**

<b><u>Applicants</u></b>	: Mr. CHUNG Chi Wing Mr. CHUNG Duncan Chi Tong Mr. CHUNG Chi Hung Mr. CHUNG Brian Chi Wah all represented by Mr. HUI Kwan Yee	(Application No. A/NE-LT/750) (Application No. A/NE-LT/751) (Application No. A/NE-LT/752) (Application No. A/NE-LT/753)
<b><u>Sites</u></b>	: Lots 1014 S.C and 1015 S.C Lots 1014 S.D and 1015 S.D Lots 1014 S.F and 1015 S.F Lots 1014 RP and 1015 RP all in D.D. 19, Lam Tsuen San Tsuen, Tai Po	(Application No. A/NE-LT/750) (Application No. A/NE-LT/751) (Application No. A/NE-LT/752) (Application No. A/NE-LT/753)
<b><u>Site Areas</u></b>	: About 184.2m <sup>2</sup> About 129.5m <sup>2</sup> About 124.3m <sup>2</sup> About 191.4m <sup>2</sup>	(Application No. A/NE-LT/750) (Application No. A/NE-LT/751) (Application No. A/NE-LT/752) (Application No. A/NE-LT/753)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)	
<b><u>Plan</u></b>	: Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11	
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)	
<b><u>Applications</u></b>	: 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 Lam Tsuen San Tsuen<sup>1</sup> as confirmed by their Indigenous Inhabitant Representative, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of each of the four proposed Small House developments 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>

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the eligibilities of Small House grant of the applicants are yet to be ascertained.

- 1.3 Layouts of the proposed Small Houses are shown in **Drawings A-1 to A-4**.
- 1.4 The Sites are the subject (in whole or in part) of nine previous applications (No. A/NE-LT/281, 282, 283, 285, 302, 303, 304, 306, and 589) submitted by the same applicants for the same use (**Plans A-1 and A-2a**), which were rejected by the Rural and New Town Planning Committee (the Committee)/ the Board on review between 2003 and 2016. Details of previous applications are set out in paragraph 5.1 below.
- 1.5 In support of the applications, the applicants have submitted the following documents:
- (a) Application Form with attachments received on (**Appendix Ia**) 23.2.2023 (application No. A/NE-LT/750);
  - (b) Application Form with attachments received on (**Appendix Ib**) 23.2.2023 (application No. A/NE-LT/751);
  - (c) Application Form with attachments received on (**Appendix Ic**) 23.2.2023 (application No. A/NE-LT/752);
  - (d) Application Form with attachments received on (**Appendix Id**) 23.2.2023 (application No. A/NE-LT/753);
  - (e) Further information (FI) received on 28.3.2023\* (**Appendix Ie**) (applications No. A/NE-LT/750 to 753)
  - (f) FI received on 20.6.2023\* (**Appendix If**) (applications No. A/NE-LT/750 to 753)
- \* *accepted and exempted from publication and recounting requirements*
- 1.6 On 21.4.2023, the Committee agreed to the applicants' request to defer making a decision on the applications for two months.

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications stated in the Application Forms at **Appendices Ia to Id** and FIs at **Appendices Ie and If** are summarized as follows:

- (a) the Sites are vacant agricultural land. The applicants have no alternative site for the proposed Small House developments;
- (b) there are some similar Small House developments in the vicinity of the Sites;
- (c) the Sites can be accessed by public transport services which are available along Lam Kam Road; and
- (d) in view of the technical difficulties in connecting the proposed Small Houses to existing public sewers in the vicinity of the Sites, septic tanks will be adopted as an interim mean of sewage disposal for the proposed developments until the existing public sewers are extended.

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

The applicants are 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 Applications**

5.1 The Sites are the subject (in whole or in part) of nine previous applications (No. A/NE-LT/281, 282, 283, 285, 302, 303, 304, 306, and 589) submitted by the same applicants for the same use which were rejected by the Committee/ the Board on review between 2003 and 2016 mainly on considerations of not complying with the Interim Criteria in that the proposed developments were not able to be connected to existing or planned sewerage system in the area and failure to demonstrate that the proposed developments located within the water gathering ground (WGG) would not cause adverse impact on water quality in the area. Application No. A/NE-LT/589 was also rejected on the grounds that the proposed development was not in line with the planning intention of “AGR” zone, and land was still available within the “V” zones of Lam Tsuen San Tsuen and San Tsuen Lo Wai.

5.2 Compared with the last previous application (No. A/NE-LT/589) with a larger site area for proposed five Small Houses, the footprints and major development parameters of the proposed four Small Houses under the current applications are generally the same.

5.3 Details of the above previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. **Similar Applications**

6.1 There are 18 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 five were approved and 13 were rejected.

6.2 For the five approved applications (No. A/NE-LT/273, 328, 329, 467 and 593), applications No. A/NE-LT/273, 328, 329 were approved with conditions by the Committee between 2002 and 2004 mainly on the grounds that the applications were in line with the Interim Criteria in that more than 50% of the footprint of the Small House was located within the village ‘environs’ (‘VE’); there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at the time of consideration; and/or being able to be connected to the planned sewerage system in the area. The planning permission of applications No. A/NE-LT/328 and 329 has lapsed and a fresh application No. A/NE-LT/467 for the two sites was approved by the Committee in 2013 mainly on sympathetic consideration in view of the

planning history of the sites that the proposed developments did not commence because the planned sewerage system in the area has yet to be completed by the Government. Application No. A/NE-LT/593 was approved in 2016 mainly on sympathetic consideration that the site was bounded by existing and approved village houses.

- 6.3 For the 13 rejected applications (No. A/NE-LT/284, 305, 319 to 327, 337, 435), they were rejected by the Committee/ the Board on review between 2003 and 2011 mainly on the grounds that they did not comply with the Interim Criteria in that it was not able to be connected to existing or planned sewerage system in the area. There was also insufficient information in the submissions to demonstrate that the proposed developments located within WGG would not cause adverse impact on water quality in the area, and/or the proposed development did not comply with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone of Lam Tsuen San Tsuen.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** 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 Sites are:
- (a) generally flat and mainly covered by self-seeded vegetation and some fruit trees;
  - (b) situated to the northeast of village proper of Lam Tsuen San Tsuen and to the immediate northeast of existing village houses;
  - (c) entirely within the ‘VE’ of San Tsuen Lo Wai and Lam Tsuen San Tsuen;
  - (d) accessible via a footpath; and
  - (e) located within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, farmland, vegetated areas and tree groups. Lam Kam Road is situated about 40m to the north of the Sites.

## **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 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 Small Houses  - Application sites	100%  100%	-  -	- The Sites and the footprints of the proposed five Small Houses fall entirely within the ‘VE’ of San Tsuen Lo Wai and Lam Tsuen San Tsuen.
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 San Tsuen Lo Wai and Lam Tsuen San Tsuen: about 3.33 ha (equivalent to 133 Small House sites). The outstanding Small House applications are 34 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 99.  <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.01 ha (or equivalent to 80 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?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agricultural development point of view as the Sites possess potential for agricultural rehabilitation.

<sup>2</sup> Among the 34 outstanding Small House applications, 30 of them fall within or largely within the “V” zones and 4 straddle or fall outside the “V” zones. For those 4 applications straddling or being outside the “V” zones, none 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 village houses, farmland, vegetated areas and tree groups.
6.	Within WGG?	✓		<ul style="list-style-type: none"> <li>- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that there is existing DSD's maintained public sewers in the vicinity but connection to the nearby public sewerage by gravity may not be possible unless there will be substantial landfilling at the existing ground.</li> <li>- Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) objects to the applications as the feasibility of the proposed sewer connection works and filling works were doubtful.</li> <li>- Director of Environmental Protection (DEP) does not support the applications unless the applicants could ensure the sewer connection is technically feasible. There is no programme for extension of public sewers in the vicinity of the Sites.</li> </ul>
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 applications.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that Small House applications should be confined within the "V" zone as far as possible. Although additional traffic generated by

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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. Notwithstanding the above, the applications only involving development of four Small Houses could be tolerated on traffic grounds.
11.	Drainage impact?		✓	- CE/MN, DSD advises that an approval condition on the submission and implementation of a drainage proposal is required.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advises that some fruit trees of common species are found within and along the site boundary. She has no objection to the applications from landscape planning perspective as significant adverse impact on existing landscape resources within the Sites and the landscape character arising from the proposed Small Houses are not anticipated.
13.	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 V**.

- (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 Comments Received During Statutory Publication Period (Appendix VI)**

The applications were published for public inspection. During the statutory public inspection period, two individuals objected to all applications mainly on the grounds that the proposed Small Houses would likely affect the water quality and similar applications were rejected, and the Sites were part of the subject of a previously rejected application No. A/NE-LT/589.

## **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 agricultural 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 are situated to the northeast of village proper of Lam Tsuen San Tsuen. It is a piece of flat land mainly covered by self-seeded vegetation and some fruit trees. The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses, farmland, vegetated areas and tree groups (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the applications from landscape planning perspective as significant adverse impact on existing landscape resources within the Sites and the landscape character arising from the proposed Small Houses are not anticipated.
- 11.3 Regarding the Interim Criteria (**Appendix II**), according to the DLO/TP, LandsD, the number of outstanding Small House applications for San Tsuen Lo Wai and Lam Tsuen San Tsuen is 34 while the 10-year Small House demand forecast for the same villages is 99. Based on PlanD’s latest estimates, about 2.01 ha of land (equivalent to 80 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 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 in view of the technical difficulties in connecting the proposed Small Houses to existing public sewers in the vicinity of the Sites, the applicants propose to adopt septic tanks as an interim mean of sewage disposal for the proposed developments until the existing public sewers are extended. CE/MN of DSD advises that connection to the nearby public sewerage by gravity may not be possible unless there will be substantial landfilling at the existing ground. DEP and CE/C of WSD does not support/objects to the applications as the applicants fail to demonstrate the technical feasibility of the sewerage connection. There is no programme for extension of public sewers in the vicinity of the Sites. In this connection, the applicants fail to demonstrate that the proposed developments located within the WGG would not cause adverse impact on the water quality in the area. 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 The Sites are the subject/ part of the subject of nine previous applications (No. A/NE-LT/281, 282, 283, 285, 302, 303, 304, 306, and 589) submitted by the same applicants for the same use which were rejected by the Committee/ the Board on review between 2003 and 2016 mainly on consideration of not complying with the Interim Criteria in that the proposed developments were not able to be connected to existing or planned sewerage system in the area and failure to demonstrate that the proposed developments located within the WGG would not cause adverse impact on water quality in the area. Application No. A/NE-LT/589 was also rejected on the grounds that the proposed development was not in line with the planning intention of “AGR” zone, and land was still available within the “V” zones of Lam Tsuen San Tsuen and San Tsuen Lo Wai. The planning circumstances of the current applications are similar to these nine previous applications.
- 11.6 There are 18 similar applications in the vicinity of the Sites, of which 13 (No. A/NE-LT/284, 305, 319 to 327, 337, 435) were rejected by the Committee/ the Board on review between 2003 and 2011. The planning circumstances of the current applications are similar to these similar applications on similar considerations as stated in paragraph 11.5.
- 11.7 Regarding the public comments objecting to the applications 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, 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” 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 the New Territories in that the applicants fail to demonstrate that the proposed developments located within water gathering ground would not cause adverse impact on the water quality in the area; and
- (c) land is still available within the “Village Type Development” (“V”) zones of San Tsuen Lo Wai and Lam Tsuen San Tsuen which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zones 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 applications, it is suggested that the permissions shall be valid until 11.8.2027, 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 VII**.

**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 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**

<b>Appendix Ia</b>	Application Form with attachments received on 23.2.2023 (application No. A/NE-LT/750)
<b>Appendix Ib</b>	Application Form with attachments received on 23.2.2023 (application No. A/NE-LT/751)
<b>Appendix Ic</b>	Application Form with attachments received on 23.2.2023 (application No. A/NE-LT/752)
<b>Appendix Id</b>	Application Form with attachments received on 23.2.2023 (application No. A/NE-LT/753)
<b>Appendix Ie</b>	FI received on 28.3.2023 (applications No. A/NE-LT/750 to 753)
<b>Appendix If</b>	FI received on 20.6.2023 (applications No. A/NE-LT/750 to 753)
<b>Appendix II</b>	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Previous applications
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Detailed comments from relevant government departments
<b>Appendix VI</b>	Public comments
<b>Appendix VII</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout plan submitted by the applicant (application No. A/NE-LT/750)
<b>Drawing A-2</b>	Layout plan submitted by the applicant (application No. A/NE-LT/751)
<b>Drawing A-3</b>	Layout plan submitted by the applicant (application No. A/NE-LT/752)
<b>Drawing A-4</b>	Layout plan submitted by the applicant (application No. A/NE-LT/753)
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available for Small House development within “V” zone
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photo

**PLANNING DEPARTMENT  
AUGUST 2023**