

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/754

<u>Applicant</u>	Mr. CHUNG Chi Yuen Andrew represented by Mr. HUI Kwan Yee
<u>Site</u>	Lot 561 S.F ss.2 S.B in D.D. 8, Sha Pa, Lam Tsuen, Tai Po
<u>Site Area</u>	About 138m 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 7%) and “Village Type Development” (“V”) (about 93%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Chung UK Tsuen as confirmed by the Indigenous Inhabitant Representatives (IIRs)¹, 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 ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 Layouts of the proposed Small House and 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 an Application Form with attachment received on 28.2.2023 (**Appendix I**).

2. Justifications from the Applicant

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

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

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 Application

There is no previous application for the Site.

6. Similar Applications

- 6.1 There are 29 similar applications for Small House development in the vicinity of the Site within the same “AGR” zone, of which 28 were submitted after the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**).
- 6.2 12 applications (No. A/NE-LT/226, 240, 249, 263, 439, 740-745 and 747) were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2000 and 2023, 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 in meeting 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 as 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 applicant, 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 Site and Its 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 the 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;
- (b) Lam Tsuen River is located to the southeast of the Site; and
- (c) village houses are located to the west and southwest of the Site.

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 at **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	100% 93%	7%	- The proposed Small House footprint falls entirely within the “V” zone. Yet, according to the Interim Criteria, the proposed development could not be exempted from planning application as the site encroaches onto WGG and more than 5% of the application site falls outside the “V” zone. - The Site falls mainly within the “V” zone with a minor portion (about 7%) in the “AGR” zone.
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 5.78 ha (equivalent to 231 Small House sites). The outstanding Small House applications are 41 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).

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 41 outstanding Small House applications, 19 fall within or largely within the “V” zones of Sha Pa and Shui Wo and 22 fall outside or largely outside the “V” zones. For those 22 applications falling outside the “V” zones, 20 have obtained valid planning approvals from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does 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.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that such type of Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 future. The resulting cumulative adverse traffic impact could be substantial. Notwithstanding, the application only involving development of a Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓		<ul style="list-style-type: none"> - Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on the submission and implementation of drainage proposal for the Site is required.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - 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 character and the existing landscape resources within the site arising from the proposed use 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) 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

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

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. While DAFC does not support the application 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, it should be noted that only a small portion (7%) of the Site falls within the “AGR” zone.
- 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, vegetated area 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 character and the existing landscape resources within the site arising from the proposed development is not anticipated.
- 11.3 Regarding the Interim Criteria, according to DLO/TP of LandsD, the number of outstanding Small House applications for Shui Wo (including Sha Pa) is 41 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 proposes 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 application on condition that the applicant 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 on **Plan A-2a**, there are 29 similar applications in close proximity to the Site. Five applications (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 since August 2015. Subsequently, 14 applications (No. A/NE-LT/706-712 and 718-724) were approved in 2022 on sympathetic consideration as the sites were part of the subject of previous applications for Small House development submitted by the same applicants. The remaining seven applications (No. A/NE-LT/740-745 and 747) were approved in 2022 and 2023 respectively 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 in meeting 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 applications No. A/NE-LT/740-745 and 747 in terms of general shortage of land for Small House development in the "V" zones.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 21.4.2027, 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 V**.

- 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 permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition and advisory clause, 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 attachment 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	Recommended advisory clauses
Drawing A-1	Layouts plan with 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" zones
Plan A-3	Aerial photo
Plan A-4	Site photos