

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

**APPLICATION NO. A/NE-LT/755**

- Applicant** : Mr. CHUNG Chor Hei represented by Mr. HUI Kwan Yee
- Site** : Lots 338 S.A and 408 S.B ss.6 in D.D.10, Chai Kek Village, Lam Tsuen, Tai Po
- Site Area** : About 112m<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 93%) and “Village Type Development” (“V”) (about 7%)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Chai Kek 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 Layouts of the proposed Small House and sewerage connection are shown in **Drawing A-1**.
- 1.4 The Site is the subject of a previous application (No. A/NE-LT/617) submitted by the same applicant for the same proposed use (**Plans A-1** and **A-2a**). It was rejected by the Rural and New Town Planning Committee (the Committee) on 22.9.2017. Details of previous application are set out in paragraph 5 below. Compared with the previous application, the footprint and development

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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.

parameters of the proposed Small House are generally the same.

- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 26.2.2023 (**Appendix I**).

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are set out at **Appendix I**, as summarized below:

- (a) the Site is currently a piece of abandoned agricultural land;
- (b) there is no other site available for the proposed Small House development; and
- (c) some similar village houses are built 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**

- 5.1 The Site is the subject of a previous application (No. A/NE-LT/617) submitted by the same applicant for the same proposed use. It was rejected by the Committee in 2017 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; and land was still available within the concerned “Village Type Development” (“V”) zone for Small House development.
- 5.2 Details of the above previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

**6. Similar Applications**

- 6.1 There are 10 similar applications for Small House development in the vicinity of the Site within or partly with the same “AGR” and “V” zones since the first promulgation of the Interim Criteria, of which three were approved and seven rejected.
- 6.2 Applications (No. A/NE-LT/ 307, 308 and 375) were approved with conditions by the Committee between 2003 and 2008 mainly on consideration that the proposed developments were in line with the Interim Criteria in that more than

50% of the respective Small House footprint was within the village ‘environs’ (‘VE’); there was a general shortage of land in meeting the demand for Small House development in the concerned “V” zone at the time of consideration; and the proposed developments were able to be connected to the planned public sewerage system.

- 6.3 Seven applications (No. A/NE-LT/310, 347, 365, 530, 535, 597 and 616) were rejected by the Committee/the Board upon review between 2004 and 2017. They were rejected mainly for being not in line with the planning intention of the “AGR” zone; the applicant failed to demonstrate that the proposed developments located within water gathering grounds (WGG) would be able to be connected to the existing or planned sewerage system and would not cause adverse water quality or landscape impacts on the surrounding areas; and/or not complying with the Interim Criteria in that land was still available within the concerned “V” zone for Small House development. The applicant of application No. A/NE-LT/365 had lodged an appeal against the Board’s decision, subsequently the appeal was dismissed by the Town Planning Appeal Board on 29.4.2008 mainly for the aforesaid reasons.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** 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) hard paved and occasionally occupied by private vehicles;
  - (b) situated at the northwestern fringe of village proper of Chai Kek ;
  - (c) accessible via a local track leading to Chai Kek Road; and
  - (d) located within the upper indirect WGG.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, vegetated areas and tree groups. A cluster of village houses are found to the immediate east of the Site. An area for temporary private car park with planning permission is found to the immediate north of the Site. Lam Kam Road is situated at about 45m to the west 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><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
1.	Within “V” zone?  - Footprint of the Small House  - Application site	3%  7%	97%  93%	- The Site and the proposed Small House footprint mainly fall within the “AGR” zone with minor portion in the “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 Chai Kek.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u><b>Land Required</b></u> - Land required to meet Small House demand in Chai Kek and Wo Liu: about 2.73 ha (equivalent to 109 Small House sites). The outstanding Small House applications are 19 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 90.  <u><b>Land Available</b></u> - Land available to meet Small House demand within the “V” zones of the villages concerned: about 1.63 ha (or equivalent to 65 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 application from the agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character comprising village houses, tree groups and agricultural land.

<sup>2</sup> Among the 19 outstanding Small House applications in Chai Kek and Wo Liu, 18 fall within the “V” zone and 1 straddles the “V” zone. For the application straddling the “V” zone, no planning approval from the Board has been granted.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
6.	Within WGG?	✓		<ul style="list-style-type: none"> <li>- 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.</li> <li>- 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 works.</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)?		✓	<ul style="list-style-type: none"> <li>- Director of Fire Services (D of FS) has no in-principle objection to the application.</li> </ul>
10.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- Commissioner for Transport (C for T) considers that Small House 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 future. The resulting cumulative adverse traffic impact could be substantial. Notwithstanding, she considers that the application only involving development of one Small House can be tolerated on traffic grounds.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Drainage impact?	✓		<ul style="list-style-type: none"> <li>- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint.</li> <li>- Approval condition on the submission and implementation of drainage proposal for the Site is required.</li> </ul>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;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.</li> </ul>
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 V**.

- (a) DLO/TP, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) DEP;
- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) CE/C, WSD; and
- (h) D of FS.

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

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

## **10. Public Comments Received During Statutory Publication Period (Appendix VI)**

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 land is still available within the “V” zone of Chai Kek and Wo Liu for Small House development and the Site is the subject of a previously rejected application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for a proposed Small House development at the Site mainly zoned “AGR” with a minor portion 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 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. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 The Site is located at the northwestern fringe of Chai Kek and is hard paved and occasionally occupied by private vehicles. The proposed development is not incompatible with the surrounding areas which is predominantly rural in character with a mix of village houses, vegetated areas and tree groups (**Plans A-2a and A-3**). 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 (**Appendix II**), according to DLO/TP, LandsD, the number of outstanding Small House applications for Chai Kek and Wo Liu is 19 while the 10-year Small House demand forecast for the same villages is 90. Based on PlanD’s latest estimate, about 1.63 ha of land (equivalent to 65 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 Site falls within the upper indirect WGG and the applicant proposes to connect the proposed Small House to the existing public sewerage system in the vicinity of the Site in Chai Kek. 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 The Site is the subject of a previous application (No. A/NE-LT/617) submitted by the same applicant for the same proposed use. It was rejected by the Committee in 2017 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; and land was still available within the concerned “V” zones for Small House development. The planning circumstances for rejecting the previous application are applicable to the current application.
- 11.6 As shown on **Plan A-2a**, there are 10 similar applications for Small House development in close proximity to the Site. Three of which were approved and seven were rejected. All of the three approved applications were approved before the Board’s formal adoption of a more cautious approach in August 2015 and mainly on consideration of being in line with the Interim Criteria in that more than 50% of the Small House footprint was within the ‘VE’; there was a general shortage of land in meeting the demand for Small House development in the concerned “V” zone at the time of consideration; and the proposed development were able to be connected to the planned public sewerage system. The planning circumstances of these approved applications were not applicable to the current application. For the rejected applications, the planning circumstances of the current application are similar in that land is still available within “V” zone for Small House development; and the proposed development was not in line with the planning intention of the “AGR” zone.
- 11.7 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10, 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 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; and
  - (b) land is still available within the “Village Type Development” (“V”) zone of Chai Kek and Wo Liu 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 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 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 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 conditions 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 I	Application form and attachment received on 26.2.2023
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Public comment
Appendix VII	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" zone
Plan A-3	Aerial photo
Plan A-4a and 4b	Site photos

**PLANNING DEPARTMENT  
APRIL 2023**