

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/758

<u>Applicant</u>	Mr. Chung Chi Fong represented by Mr. Hui Kwan Yee
<u>Site</u>	Lots 567 S.D and 573 S.G in D.D. 8, Sha Pa, Lam Tsuen, Tai Po
<u>Site Area</u>	About 101m 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”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Chai Kek Village of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR)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 Layout 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 grant has yet to be ascertained.

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

(a) Application Form with attachment received on 15.5.2023 (Appendix I)

(b) Further information (FI) received on 24.8.2023* (Appendix Ia)

(* accepted and exempted from publication requirements)

1.5 On 14.7.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months.

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** and FI at **Appendix Ia** are summarized as follows:

- (a) the Site is currently an abandoned land;
- (b) there is no other land available for the proposed Small House development;
- (c) there are some similar Small Houses development in the vicinity; and
- (d) the Site can be accessed by public transport services which are available along Lam Kam Road.

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 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 30 similar applications for Small House development in the vicinity of the Site within the same “AGR” zone, of which 29 were submitted after the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-2a**).
- 6.2 Five applications (No. A/NE-LT/226, 240, 249, 263 and 439) were approved with conditions by the Committee between 2000 and 2012 (i.e. before the formal adoption of a more cautious approach by the Board since August 2015²), 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.
- 6.3 22 applications (No. A/NE-LT/706-712, 718-724, 740-745, 747 and 754) were approved with conditions by the Committee between 2022 and 2023 (i.e. after the formal adoption of a more cautious approach since August 2015), 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 ‘VE’ and there was a general shortage of land in meeting the demand for Small House development of the concerned “V” zones at the time of consideration, and/or on sympathetic consideration as the sites were part of the subject of previous applications (No. A/NE-LT/226, 240, 249, 263 and 439) for Small House development submitted by the same applicants.
- 6.4 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.
- 6.5 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.

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

7.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with village houses, farmlands, vegetated areas and tree clusters;
- (b) Lam Tsuen River is located to the south of the Site; and
- (c) village houses are located to the east and northeast 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% 100%	- The Site and the proposed Small House footprint fall entirely within 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 entirely 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-		✓	<u>Land Required</u> - Land required to meet Small House demand in Shui Wo

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	year Small House demand)?			<p>(including Sha Pa)³: about 5.28 ha (equivalent to 211 Small House sites). The outstanding Small House applications are 21⁴ while the 10-year Small House demand forecast for the same villages is 190.</p> <p><u>Land Available</u></p> <ul style="list-style-type: none"> - 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).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “AGR” zone?		✓	<ul style="list-style-type: none"> - Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The surrounding areas are predominantly rural in character comprising village houses, farmlands, vegetated area and tree clusters.
6.	Within Water Gathering Ground (WGG)?	✓		<ul style="list-style-type: none"> - 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 his own costs and reserve adequate land for the sewer connection work. - Chief Engineer / Construction,
7.	Sewerage Impact	✓		

³ “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.

⁴ Among the 21 outstanding Small House applications, 19 fall within or largely within the “V” zones of Sha Pa and Shui Wo and two fall outside or largely outside the “V” zones. For those two applications straddling or being outside the “V” zones, one has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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.
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 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 above, the application only involving development of a Small House could be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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.	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 Comment 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” 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 application 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 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 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 (**Appendix II**), according to DLO/TP of LandsD, the number of outstanding Small House applications for Shui Wo (including Sha Pa) is 21 while the 10-year Small House demand forecast is 190. Based on PlanD’s latest estimate, about 0.94 ha of land (equivalent to 36 Small House sites) is available within the “V” zones concerned. While the amount of land available within the “V” zones (**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 at Sha Pa Village, which is located near the Site. DEP, CE/C of WSD and CE/MN of DSD have no in-principle objection on the application. 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 30 similar applications in close proximity to the Site. Among them, five applications were approved before the formal adoption of a more cautious approach by the Board 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 ‘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. After the formal adoption of a more cautious approach by the Board, 22 applications were approved with conditions by the Committee between 2022 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 ‘VE’ and there was a general shortage of land in meeting the demand for Small House development of the concerned “V” zones at the time of consideration, and/or on sympathetic consideration as the sites were part of the subject of previous applications for Small House development submitted by the same applicants. As the Site is not subject of a previous application and the amount of land available within the “V” zones is

sufficient to accommodate the outstanding Small House applications, the planning circumstances of the current application are different from the approved similar applications.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11, 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 “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; and
- (b) land is still available within the “V” zones of Shui Wo and Sha Pa 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 application, it is suggested that the permission shall be valid until 13.10.2027, 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 recommended advisory clauses are attached at **Appendix V**.

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 advisory clause, 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 with attachment received on 15.5.2023
Appendix Ia	FI received on 24.8.2023
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	Recommended advisory clauses
Drawing A-1	Layout 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 photo

**PLANNING DEPARTMENT
OCTOBER 2023**