

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

**APPLICATIONS NO. A/NE-LT/759 to 761**

<b><u>Applicants</u></b>	Mr. Chung Tin Sang Mr. Chung Fook On Mr. Chung Kam Sing Alex all represented by Mr. Cheung Kwok Leung	(Application No. A/NE-LT/759) (Application No. A/NE-LT/760) (Application No. A/NE-LT/761)
<b><u>Sites</u></b>	Lots 567 S.A, 573 S.C and 574 S.D Lots 567 S.B and 574 S.E Lot 567 S.H all in D.D. 8, Sha Pa, Lam Tsuen, Tai Po	(Application No. A/NE-LT/759) (Application No. A/NE-LT/760) (Application No. A/NE-LT/761)
<b><u>Site Areas</u></b>	About 125.3m <sup>2</sup> About 169.1m <sup>2</sup> About 125.9 m <sup>2</sup>	(Application No. A/NE-LT/759) (Application No. A/NE-LT/760) (Application No. A/NE-LT/761)
<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>	A 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 Chai Kek Village as confirmed by the Indigenous Inhabitant Representative (IIR)<sup>1</sup>, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) (**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).

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

1.2 Details of each of the three 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>

1.3 Layouts of the proposed Small Houses and sewerage connection are shown in **Drawings A-1 to A-6**.

1.4 In support of the applications, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 31.8.2023 (application No. A/NE-LT/759); **(Appendix Ia)**
- (b) Application Form with attachments received on 31.8.2023 (application No. A/NE-LT/760); **(Appendix Ib)**
- (c) Application Form with attachments received on 31.8.2023 (application No. A/NE-LT/761) **(Appendix Ic)**
- (d) Further Information (FI) received on 3.10.2023\* **(Appendix Id)**  
(applications No. A/NE-LT/759 to 761)

*(\* accepted and exempted from publication requirements)*

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

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

- (a) there is no land available for the proposed Small Houses development in the “Village Typed Development” (“V”) zone in Sha Pa;
- (b) there are some similar Small House developments in the vicinity; and
- (c) the applicants are willing to connect the proposed Small Houses to public sewers at their own cost.

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

The applicants are 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 Sites.

#### **6. Similar Applications**

- 6.1 There are 31 similar applications for Small House development in the vicinity of the Sites which fall within or straddling the same “AGR” zone, of which 30 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 2015<sup>2</sup>), 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 “V” zone concerned 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 the aforementioned more cautious approach), 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 “V” zones concerned 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 Three applications (No. A/NE-LT/461, 462 and 463) were rejected by the Committee in 2013 mainly for reason of being not compliance with the Interim Criteria for failure to demonstrate that the proposed development would not cause adverse impact on the water quality in the area. The remaining application (No. A/NE-LT/758) was rejected by the Committee in 2023 mainly for being not in line with the planning intention of the “AGR” zone, and land was still available within the “V” zones concerned for Small House development.

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<sup>2</sup> 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.

6.5 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 Sites are:

- (a) vacant, generally flat and covered with self-seeded vegetation;
- (b) accessible via a footpath leading to Lam Kam Road across Lam Tsuen River (**Plan A-2a**); and
- (c) within the upper indirect water gathering grounds (WGG) and the Sha Pa Site of Archaeological Interest (**Plan A-1**).

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 running to the south and east of the Sites; and
- (c) village houses are located to the east and northeast 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 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 Houses  - Application sites	-  -	100%  100%	- The Sites and the proposed Small House footprints fall entirely within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within 'VE'?  - Footprint of the Small Houses  - Application sites	100%  100%	-  -	- The Sites and the footprints of the proposed three Small Houses fall entirely within the tentative 'VE' boundary ( <b>Plan A-2a</b> ) of Sha Pa Village, which were 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)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Shui Wo (including Sha Pa) <sup>3</sup> : about 5.28 ha (equivalent to 211 Small House sites). The outstanding Small House applications are 21 <sup>4</sup> 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) ( <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 agricultural point of view as the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding areas/development?	✓		- The surrounding areas are predominantly rural in character comprising village houses, farmlands, vegetated area and tree clusters.

<sup>3</sup> "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.

<sup>4</sup> 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.

	<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>- Director of Environmental Protection (DEP) has no objection to the applications provided that the applicants 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 works.</li> <li>- Chief Engineer / Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications as the Small Houses are proposed to be connected to the existing public sewerage system.</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 applications.</li> </ul>
10.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- 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 applications only involving development of three Small Houses could be tolerated on traffic grounds.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Drainage impact?		✓	- Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications 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 applications from landscape planning perspective as significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed use 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 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 applications were published for public inspection. During the statutory public inspection period, a public comment was received from an individual objecting to all applications mainly on the ground that land is still available within the “V” zones.

## 11. Planning Considerations and Assessments

- 11.1 The applications are for proposed Small House development at each of the Sites 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 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 located entirely within the tentative ‘VE’ boundary of Sha Pa Village and are vacant and covered with self-seeded vegetation. The proposed developments are 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 applications from the landscape planning perspective as significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed developments are 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. Among 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 the applicants propose to connect the proposed Small Houses 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 applications. 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 As shown on **Plan A-2a**, there are 31 similar applications in close proximity to the Sites as detailed in section 6 above. Among them, five applications were

approved before the formal adoption of a more cautious approach by the Board. After the formal adoption of the more cautious approach, 22 applications were approved 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 "V" zones concerned 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. Three applications were rejected mainly for reason of being 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. The remaining application (No. A/NE-LT/758) was rejected by the Committee in 2023 mainly for being not in line with the planning intention of the "AGR" zone; and land was still available within the "V" zones concerned for Small House development. The planning circumstances of the current applications are similar to application No. A/NE-LT/758.

- 11.6 Regarding the public comment 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 in to 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 "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 applications, it is suggested that the permission shall be valid until 27.10.2027, 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 VI**.

### **13. Decision Sought**

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permission.
- 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 advisory clause, if any, to be attached to the permission, and the date when the validity of the permission should expire.

### **14. Attachments**

Appendix Ia	Application Form with attachment received on 31.8.2023 (application No. A/NE-LT/759)
Appendix Ib	Application Form with attachment received on 31.8.2023 (application No. A/NE-LT/760)
Appendix Ic	Application Form with attachment received on 31.8.2023 (application No. A/NE-LT/761)
Appendix Id	FI received on 3.10.2023
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 comment
Appendix VI	Recommended advisory clauses
Drawing A-1 to A2	Layout plan with sewerage connection plan submitted by the applicant (application No. A/NE-LT/759)
Drawing A-3 to A4	Layout plan with sewerage connection plan submitted by the applicant (application No. A/NE-LT/760)
Drawing A-5 to A6	Layout plan with sewerage connection plan submitted by the applicant (application No. A/NE-LT/761)
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**