

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/763

- Applicant** : Mr. CHAN Choi Hing represented by Heng Fai Consulting Limited
- Site** : Lot 338 S.A ss.1 in D.D. 19, San Uk Pai, Lam Tsuen, Tai Po, N.T
- Site Area** : About 97.9m²
- Lease** : Block Government Leases (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, an indigenous villager of She Shan Village of Tai Po Heung¹ 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)’ in “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 the sewerage connection are shown in **Drawing A-1**.
- 1.4 The Site is the subject of three previous applications (No. A/NE-LT/277, 293 and 537) for the same use. The last previous application (No. A/NE-LT/537) was submitted by the same applicant as the current one, and was approved by the Rural and New Town Planning Committee (the Committee) on 9.10.2015 but the permission has subsequently lapsed. Compared with the previous approved application, the development parameters and layout of the proposed Small House remain the same. Details of previous applications are set out in paragraph 5 below.

¹ 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.

- 1.5 In support of the application, the applicant has submitted an Application Form with attachment received on 5.12.2023 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application stated in Part 8 of the Application Form at **Appendix I** are summarized as follows:

- (a) the Site falls within the village ‘environs’ (‘VE’) of San Uk Pai. There is a shortage of government land in meeting the demand for Small Houses in “Village Type Development” (“V”) zone of She Shan;
- (b) the proposed development is considered compatible with the adjoining rural environment and will not cause any adverse drainage impact on the Site and its surrounding areas. Public sewer at the north of the Site is available for connection; and
- (c) the Site is subject of a previous application (A/NE-LT/537), which was approved by the Committee in 2015. The applicant has mistakenly missed the deadline for extension of the planning permission in 2019 during his Small House application to LandsD.

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 Applications

- 5.1 The Site is the subject of three previous applications (No. A/NE-LT/277, 293 and 537). The last one (No. A/NE-LT/537) was submitted by the same applicant as the current one for the same proposed use. It was approved by the Committee on 9.10.2015 mainly on considerations that the proposed development was in line with the Interim Criteria that more than 50% of the respective Small House footprint was within the ‘VE’ of San Uk Pai; not incompatible with the surrounding environment which was rural in character with scattered village houses and agricultural land; would be able to connect to the planned sewerage system; and sympathetic consideration had been given to the application as the Site was located on a narrow strip of land sandwiched between the boundary of “V” zone and the ‘VE’ of San Uk Pai. It was lapsed in 2019.

- 5.2 The other two applications (A/NE-LT/277 and 293) were submitted by a

different applicant for the same use which were rejected by the Committee on 22.11.2002 and 25.7.2003 respectively mainly for the reasons of being not complied with the Interim Criteria in that the proposed development could not be connected to existing or planned sewerage system and failure to demonstrate that the proposed development would not cause adverse impact on water quality in the area.

- 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 six similar applications for Small House development in the vicinity of the Site within/straddling the same “AGR” zone since the first promulgation of the Interim Criteria, of which three were approved and three rejected.
- 6.2 Applications No. A/NE-LT/359, 367 and 447 involving two sites for Small House developments were approved with conditions by the Committee between 2006 and 2012 (i.e before the formal adoption of a more cautious approach by the Board since August 2015²), mainly on the grounds of being in line with the Interim Criteria in that more than 50% of the Small House footprint was within the ‘VE’; a general shortage of land within the “V” zone to meet the demand for Small House development at the time of consideration; and could be connected to the planned public sewerage system.
- 6.3 The other three applications (No. A/NE-LT/351, 659 and 660) were rejected by the Committee/the Board on review between 2005 and 2019. Application No. A/NE-LT/351 was rejected by the Committee mainly for reasons that the Site would partly encroach onto the works limit of the proposed river improvement works; and insufficient information to demonstrate that the proposed development would not cause adverse impact on the water quality in the area. The other two applications (A/NE-LT/659 and 660) were rejected mainly on the grounds of not in line with the planning intention of the “AGR” zone; failure to demonstrate that the proposed development would not have adverse drainage impact on the surrounding areas; and land was still available within the “V” zones concerned for Small House development.
- 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) flat, hard paved and currently vacant;
 - (b) falls mostly within the ‘VE’ of Sha Uk Pai Village;
 - (c) located within upper indirect water gathering ground (WGG); and

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.

(d) accessible via a village road connecting to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character with village houses, temporary structures and clusters of tree groups. There are village houses immediately surrounding 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	87% 74%	13% 26%	- The Site and the proposed Small Houses footprint fall mostly within the ‘VE’ of San Uk Pa Village.
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 Kau Liu Ha, Hang Ha Po and San Uk Pai: about 9.05 ha (equivalent to 362 Small House sites). The outstanding Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<p>applications are 20³ while the 10-year Small House demand forecast for the same villages is 342.</p> <p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet Small House demand within the “V” zones of the villages concerned: about 3.45 ha (or equivalent to 137 Small House sites) (Plan A-2b).
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 the agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The Site is situated in an area of settled valleys landscape character comprising village houses, temporary structures and clusters of tree groups.
6.	Within WGG?	✓		<ul style="list-style-type: none"> - Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the Small House would be able to be connected to the public sewerage system. - 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.
7.	Sewerage Impact		✓	

³ Among the 20 outstanding Small House applications, 19 of them fall within the “V” zones and one straddles or falls outside the “V” zones. For the one application straddling or being outside the “V” zones, it has not obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 Small House developments 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 the 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.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection on 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 perspective as significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
13.	Local objections		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	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) 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) 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, three public comments were received from individuals objecting to the application mainly on the grounds that the proposed Small House would affect the vehicular access, and cause adverse drainage, hygiene and environmental impacts.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House at the Site zoned “AGR” 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.

11.2 The Site is located mostly within the ‘VE’ of San Uk Pai Village, and is currently hard paved and vacant. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses, temporary structures and clusters of

tree groups (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection on the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use 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 Kau Liu Ha, Hang Ha Po and San Uk Pai is 20 while the 10-year Small House demand forecast for the same villages is 342. Based on PlanD's latest estimate, about 3.45 ha of land (equivalent to 137 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" zones for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is the subject of a previous application (No. A/NE-LT/537) for Small House development submitted by the same applicant, which was approved in 2015. Compared with the previous application, the development parameters and layout of the proposed Small House remain the same. Moreover, as advised by DLO/TP of LandsD, the Small House application submitted by the applicant is under processing. Hence, sympathetic consideration could be given to the current application.
- 11.4 The Site falls within the upper indirect WGG. The applicant proposes to connect the proposed Small House to the public sewerage system in the vicinity of the site in San Uk Pai. DEP, CE/C of WSD and CE/MN of DSD have no objection on the application. Other relevant government departments including D of FS, C for T, and CHE/NTE of HyD have no objection to or adverse comments on the application.
- 11.5 As shown on **Plan A-2a**, there are six similar applications for Small House development in close proximity to the Site as detailed in paragraph 6 above. Among them, two applications (No. A/NE-LT/659 and 660) were rejected in 2019 after the Board's formal adoption of a more cautious approach since August 2015, mainly for being not in line with the planning intention of the "AGR" zone; not complying with the Intern Criteria in that the applicant failed to demonstrate that the proposed developments would not have adverse drainage impact on the surrounding area; and land was still available within the concerned "V" zones for Small House development. As the Site is subject of a previously approved application submitted by the same applicant, the planning circumstances of the current application are different from the rejected similar applications.
- 11.6 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 10, government departments' comments and the planning assessments and considerations 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, 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 26.1.2028, 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 VII**.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member's reference:
 - (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 Kau Liu Ha, Hang Ha Po and San Uk Pai 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.

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(s) and advisory clauses, 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 5.12.2023
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 comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Site 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
JANUARY 2024**