

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

**APPLICATION NO. A/NE-MUP/159**

|                           |   |   |
|---------------------------|---|---|
| <b><u>Applicant</u></b>   | : | Mr. TSANG Koon Yau represented by Mr. PANG Hing Yeun  |
| <b><u>Site</u></b>        | : | Lot 560 S.C in D.D. 46, Loi Tung Village, Sha Tau Kok, New Territories  |
| <b><u>Site Area</u></b>   | : | 140.2 m <sup>2</sup> (about)  |
| <b><u>Lease</u></b>       | : | Block Government Lease (demised for agricultural use)   |
| <b><u>Plan</u></b>        | : | Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11   |
| <b><u>Zonings</u></b>     | : | (i) "Agriculture" ("AGR") (about 137.1 m <sup>2</sup> or 97.8% of the Site)<br>(ii) "Village Type Development" ("V") (about 3.1 m <sup>2</sup> or 2.2% of the Site) |
| <b><u>Application</u></b> | : | Proposed House (New Territories Exempted House (NTEH) – Small House)  |

**1. The Proposal**

1.1 The applicant, who claims himself an indigenous villager of Ngau Shi Wu in Sha Tau Kok Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Loi Tung, Sha Tau Kok (**Plans A-1 and A-2a**). The Site falls mostly within an area zoned "AGR" with a very minor portion zoned "V" on the approved Man Uk Pin OZP No. S/NE-MUP/11. 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)' is a Column 2 use in the "AGR" zone requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

|                   |   |                       |
|-------------------|---|-----------------------|
| Total Floor Area  | : | 195.09 m <sup>2</sup> |
| Number of Storeys | : | 3                     |
| Building Height   | : | 8.23 m                |
| Roofed Over Area  | : | 65.03 m <sup>2</sup>  |

1.3 Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as circulation area.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Ngau Shi Wu, Sha Tau Kok Heung. His eligibility for Small House grant has yet to be ascertained.

1.4 The Site is the subject of two previously approved applications for Small House development. Compared with the latest approved application No. A/NE-MUP/126 which was submitted by the same applicant as the current application and lapsed on 14.1.2021, there is no change to the major development parameters including the site area and the footprint of the proposed Small House.

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

- (a) Application Form with attachments received on 13.5.2021 (Appendix I)
- (b) Further Information received on 24.6.2021 (Appendix Ia)  
(accepted and exempted from publication)

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the applicant, being an indigenous villager of Sha Tau Kok Heung, is entitled to build a Small House under the current Small House Policy;
- (b) the Site is the subject of a previous planning application for Small House development approved in 2017 submitted by the same applicant. The applicant has forgotten to make an application for extension of time for commencement of the Small House development, and hence a fresh planning application is required;
- (c) the Site falls within the village ‘environs’ (‘VE’) of Loi Tung Village. The proposed Small House is compatible with the surrounding land uses and there were approved applications for Small House development in the vicinity of the Site; and
- (d) the applicant has no other suitable land for Small House development.

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

The applicant is the sole “current land owner” of the lot. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

## **5. Previous Applications**

5.1 The Site is the subject of two previously approved applications No. A/NE-MUP/73 and 126 for Small House development. The last application was submitted by the same applicant as the current application.

- 5.2 Application No. A/NE-MUP/73 was approved by the Rural and New Town Planning Committee (the Committee) on 6.7.2012 before the adoption of a more cautious approach by the Board mainly on the considerations that the application complied with the Interim Criteria in that the site fell entirely within the ‘VE’ and there was a general shortage of land within the “V” zone in meeting the Small House demand; and the proposed development would unlikely to cause significant adverse impacts on the surrounding areas.
- 5.3 Application No. A/NE-MUP/126 was approved by the Committee on 13.1.2017 after the adoption of a more cautious approach mainly on considerations that the site is in close proximity to the “V” zone of Loi Tung and bounded by existing and new Small Houses at different stages of development. The planning permission lapsed on 14.1.2021. Compared with the last approved application, there is no change to the major development parameters including the site area and the footprint of the proposed Small House under the current application.
- 5.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1 and A-2a**.

## **6. Similar Applications**

- 6.1 There are 10 similar applications involving 9 sites for Small House development within / partly within the “AGR” zones in the vicinity of the Site (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Before the adoption of a more cautious approach by the Board, five applications (No. A/NE-MUP/39, 45, 46, 74 and 76) were approved with conditions by the Committee between January 2002 and November 2012 mainly on the considerations that the applications complied with the Interim Criteria in that the sites fell entirely within the ‘VE’ and there was a general shortage of land within the “V” zone in meeting the Small House demand at the time of considerations; and the proposed Small Houses would not have significant adverse traffic, environmental and drainage impacts on the surrounding areas. One application (No. A/NE-MUP/68) was rejected by the Committee in June 2011 mainly on the grounds that the application did not comply with the Interim Criteria in that majority of the footprint of the proposed Small House fell outside both the “V” zone and ‘VE’.
- 6.3 After the adoption of a more cautious approach, application No. A/NE-MUP/125 was approved by the Committee in January 2017 mainly for reason of being the subject of a previously approved application (No. A/NE-MUP/74). The remaining three applications No. A/NE-MUP/144, 145 and 157 were approved by the Committee between November 2019 and January 2021 mainly on sympathetic considerations that the sites were sandwiched between the boundary of the “V” zone and ‘VE’ of Loi Tung Village and bounded by existing and new Small Houses at different stages of development; and further proliferation of Small House development outside both the “V” zone and the ‘VE’ was unlikely.
- 6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1 and A-2a**.

**7. The Site and its Surrounding Areas (Plans A-1, A-2a and A-2b, UAV photo on Plan A-3 and site photos on Plan A-4)**

**7.1 The Site is:**

- (a) covered by wild grasses;
- (b) located to the south of the village proper of Loi Tung; and
- (c) not served by any vehicular access.

**7.2 The surrounding areas have the following characteristics:**

- (a) an area of rural inland plain landscape character surrounded by village houses and fallow/active agricultural land;
- (b) to the north, east and west within the ‘VE’ of Loi Tung are fallow agricultural land, village houses and the sites of some Small House grant applications approved / being processed by LandsD. The “V” zone of Loi Tung Village is located to the immediate north of the Site;
- (c) to the immediate south is the site of previously approved applications (No. A/NE-MUP/74 & 125) for Small House development with its Small House grant approved by LandsD; and
- (d) to the south are fallow/active agricultural land and unused land, while to the further southwest is the Heung Yuen Wai Highway.

**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 in **Appendix II**. The assessment is summarised in the following table:

|    | <b><u>Criteria</u></b>                  | <b><u>Yes</u></b> | <b><u>No</u></b> | <b><u>Remarks</u></b>   |
|----|---|-------------------|------------------|---|
| 1. | Within “V” zone?                        |                   |                  |   |
|    | - The Site                              | 2.2%              | 97.8%            | - The Site falls mostly within the “AGR” zone while the footprint of the proposed Small House falls entirely within the “AGR” zone. |
|    | - Footprint of the proposed Small House | –                 | 100%             |   |

|    | <u>Criteria</u>   | <u>Yes</u>       | <u>No</u>  | <u>Remarks</u>   |
|----|---|------------------|------------|--|
| 2. | Within 'VE'?<br><br>- The Site<br><br>- Footprint of the proposed Small House   | 100%<br><br>100% | -<br><br>- | - District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site and footprint of the proposed Small House fall entirely within the 'VE' of Loi Tung.  |
| 3. | Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)? |                  | ✓          | <u>Land Required</u><br>- Land required to meet the Small House demand in Loi Tung Village: about 12.68 ha (equivalent to 507 Small House sites). The outstanding Small House applications for Loi Tung Village are 31 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 476.<br><br><u>Land Available</u><br>- Land available to meet the Small House demand within the "V" zone of Loi Tung Village: about 1.74 ha (equivalent to 69 Small House sites) ( <b>Plan A-2b</b> ). |
|    | Sufficient land in "V" zone to meet outstanding Small House application?  | ✓                |            | - Land available to meet the Small House demand within the "V" zone of Loi Tung Village: about 1.74 ha (equivalent to 69 Small House sites) ( <b>Plan A-2b</b> ).  |
| 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 Site possesses potential for agricultural rehabilitation. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses and plant nurseries, etc.  |
| 5. | Compatible with surrounding area/development?   | ✓                |            | - The proposed development is not incompatible with the surrounding areas predominated by village houses and fallow/active agricultural land.  |
| 6. | Within Water Gathering Grounds?   |                  | ✓          | - Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.  |
| 7. | Encroachment onto planned road networks and public works boundaries?  |                  | ✓          |  |

<sup>2</sup> Among the 31 outstanding Small House applications, 19 of them fall within the "V" zone and 12 straddle or outside the "V" zone. For those 12 applications straddling or outside the "V" zone, 3 of them have 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>  |
|-----|--|-------------------|------------------|--|
| 8.  | Need for provision of fire service installations and emergency vehicular access (EVA)? |                   | ✓                | - Director of Fire Services (D of FS) has no specific comment on the application. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.  |
| 9.  | Traffic impact?  | ✓                 |                  | - Commissioner for Transport (C for T) has reservation on the application and advises 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 the future. The resulting cumulative adverse traffic impact could be substantial.<br><br>- Notwithstanding the above, the application involves construction of one Small House. She considers that the application can be tolerated unless being rejected on other grounds. |
| 10. | Drainage impact?   | ✓                 |                  | - Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required for the application.   |
| 11. | Sewage impact?   |                   | ✓                | - Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.  |
| 12. | Landscaping impact?  |                   | ✓                | - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective. Significant adverse landscape impact arising from the developments are not anticipated.  |
| 13. | Local objection conveyed by DO?  |                   | ✓                | - District Officer (North), Home Affairs Department (DO(N), HAD) advises that the North District Council member of the subject constituency, the Chairman of Sha Tau Kok District Rural Committee and the Resident Representative (RR) of Loi Tung have no comment on the application. The Indigenous  |

|  | <u>Criteria</u> | <u>Yes</u> | <u>No</u> | <u>Remarks</u>  |
|--|-----------------|------------|-----------|---|
|  |                 |            |           | Inhabitant Representative (IIR) of Loi Tung supports the application. |

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Detailed comments from Government departments are at **Appendix V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) Project Manager (North), Civil Engineering and Development Department.

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

On 21.5.2021, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited and two individuals object to the application mainly on the grounds of not in line with the planning intention of “AGR” zone; land still being available within the “V” zone for Small House development; setting of undesirable precedent for similar applications within “AGR” zone; insufficient information available on the particulars of the applicant; possible water pollution arising from the use of septic tank; and the application with lapsed previous approval should be considered as a fresh application.

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

11.1 The application is for a proposed Small House on the Site mostly zoned “AGR” with a very 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 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 point of view as the Site possesses potential for agricultural rehabilitation.

11.2 This application is a cross-village Small House application. DLO/N, LandsD advises that the Site falls entirely within the ‘VE’ of Loi Tung Village. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Loi Tung Village is 31 while the 10-year Small House demand forecast for the same village is 476. According

to the latest estimate by PlanD, about 1.74 ha (equivalent to 69 Small House sites) of land are available in the “V” zone of Loi Tung Village for Small House development (**Plan A-2b**).

- 11.3 The Site is situated in an area of rural inland plain character predominated by village houses and fallow/active agricultural land. The proposed Small House development is not incompatible with the surrounding area (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application as significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House, the application could be tolerated. Other relevant Government departments, including DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Loi Tung Village (**Plan A-2a**). While land available within the “V” zone of the concerned village is insufficient to fully meet the future Small House demand of 507 Small Houses, it is noted that land (about 1.74 ha or equivalent to 69 Small House sites) is still available within the “V” zone to meet the 31 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. As such, 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. Nevertheless, the Site is the subject of a previously approved planning application (No. A/NE-MUP/126) for the same use submitted by the same applicant as the current application. Compared with the previous application, there is no change to the planning parameters including the layout of the proposed Small House. Moreover, DLO/N of LandsD advises that the Small House grant application is still under processing. Hence, sympathetic consideration might be given to the current application.
- 11.5 There are six similar applications involving five sites for Small House development in the vicinity of the Site (**Plan A-2a**) which were all approved by the Committee. Three applications were approved between 2002 and 2012 before a more cautious approach is adopted by the Board. After the cautious approach is adopted by the Board, one application (No. A/NE-MUP/125) was approved in January 2017 mainly for reason of being the subject of a previously approved application (No. A/NE-MUP/74). The remaining two applications (No. A/NE-MUP/144 & 145) were approved in November 2019 mainly on sympathetic considerations that the locations of the proposed Small Houses were sandwiched between the boundary of the “V” zone and ‘VE’ of Loi Tung Village and there were a number of existing and new Small Houses at different stages of development in close proximity of the sites forming a new village cluster in the locality. The circumstances of the current application are similar to application No. A/NE-MUP/125 to the immediate south of the Site.
- 11.6 Regarding the adverse public comments mentioned in paragraph 10 above, Government departments’ comments and planning 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 comments mentioned in paragraph 10 above, 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 9.7.2025, 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 Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' 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 and 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" zone of Loi Tung Village where land 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.

## **13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), 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**

|                     |   |
|---------------------|---|
| <b>Appendix I</b>   | Application Form with attachments received on 13.5.2021   |
| <b>Appendix Ia</b>  | Further Information received on 24.6.2021   |
| <b>Appendix II</b>  | Relevant Interim Criteria for Consideration of Application for NTEH/<br>Small House in New Territories    |
| <b>Appendix III</b> | Previous Applications   |
| <b>Appendix IV</b>  | Similar Applications  |
| <b>Appendix V</b>   | Detailed Comments from Relevant Government Departments  |
| <b>Appendix VI</b>  | Public Comments   |
| <b>Appendix VII</b> | Recommended Advisory Clauses  |
| <b>Drawing A-1</b>  | Layout Plan   |
| <b>Plan A-1</b>     | Location Plan   |
| <b>Plan A-2a</b>    | Site Plan   |
| <b>Plan A-2b</b>    | Estimated Amount of Land Available within the “V” zone of Loi Tung<br>Village for Small House Development |
| <b>Plan A-3</b>     | UAV Photo   |
| <b>Plan A-4</b>     | Site Photos   |

**PLANNING DEPARTMENT  
JULY 2021**