

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/180

- Applicant** : Mr. LI Woon Tung represented by Glister Engineering Consultants Company
- Site** : Lot 58 S.A (Part) in D.D. 46, Tai Tong Wu Village, New Territories
- Site Area** : 111m²
- Lease** : (i) Block Government Lease (demised for agricultural use)
(ii) Letter of Approval No. L6292 for watchman shed, pigsty, pigsty dung storage, agricultural storage and water tank purpose
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself to be an indigenous villager¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Tai Tong Wu Village (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the OZP. 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). The Site is currently vacant.

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

Total Floor Area	: 195.09m ²
Number of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

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

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claims himself to be an indigenous villager of Shek Kiu Tau Village. His eligibility for Small House grant is yet to be ascertained.

- 1.4 The Site is the subject of a previous application (No. A/NE-MUP/129) submitted by the same applicant (**Plans A-1 and A-2a**) for the same use which was approved by the Rural and New Town Planning Committee (the Committee) on 22.12.2017. Details of the previous applications are set out in paragraph 5.1 below.
- 1.5 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**), which were received on 11.1.2023.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, and summarized as follows:

- (a) the applicant, being an indigenous villager, is entitled to build a Small House under the current Small House Policy;
- (b) the Site falls within the village 'environs' ('VE') of Tai Tong Wu Village. The proposed Small House development is compatible with the surrounding environment and land uses; and
- (c) the Site is the subject of a previous application No. A/NE-MUP/129 which was approved by the Committee. There were also similar applications approved in the vicinity.

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 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 Application

- 5.1 The Site is the subject of a previous application No. A/NE-MUP/129 submitted by the same applicant for the same use, which was approved by the Committee on 22.12.2017 mainly on sympathetic consideration that the application generally complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the 'VE' of Tai Tong Wu Village; the Site was in close proximity to the existing village proper of Tai Tong Wu Village; and there were approved Small House applications in the vicinity. The planning permission lapsed on 23.12.2021.
- 5.2 Details of the previous application are summarized at **Appendix III** and its location is shown in **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There were 22 similar applications for Small House development in the vicinity of the Site within / partly within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 For the 21 approved applications, nine applications (No. A/NE-MUP/40, 49, 67, 70, 110, 111, 112, 113 and 114) were approved with conditions by the Committee between February 2002 and May 2015 (i.e. before the formal adoption of a more cautious approach since August 2015²) mainly on the grounds that more than 50% of the proposed Small House footprints fell within the ‘VE’; there was a general shortage of land within “Village Type Development” (“V”) zone in meeting the Small House demand at the time of consideration; and the proposed Small House developments were not incompatible with the surrounding rural landscape character and would unlikely generate significant adverse impacts on the surrounding areas.
- 6.3 12 applications (No. A/NE-MUP/120, 124, 130, 131, 132, 133, 134, 161, 176, 177, 178 and 179) were approved by the Committee between January 2016 and February 2023 (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on the grounds that the Sites were located in close proximity to the existing village cluster of Tai Tong Wu Village; there were approved Small House applications nearby forming a new cluster in the locality; and/or the Sites were the subject of previous approved applications submitted by the same applicants.
- 6.4 One application (No. A/NE-MUP/48) was rejected by the Committee of the Board on 25.6.2004 mainly on the grounds that the proposed Small House development did not comply with the Interim Criteria in that the entire application site was outside the “V” zone; and the majority of the application site and footprint of the proposed Small House was outside the ‘VE’ of Tai Tong Wu Village.
- 6.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **A-2a**.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4)

- 7.1 The Site is:
 - (a) flat, vacant and partly paved; and
 - (b) accessible via a local track.
- 7.2 The surrounding areas have the following characteristics:
 - (a) predominantly rural in character where village houses and fallow agricultural land are found; and
 - (b) to the west is the village proper of Tai Tong Wu Village.

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

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 summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - The Site - Footprint of the proposed Small House	- -	100% 100%	- The Site and the footprint of the proposed Small House falls entirely within the “AGR” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	73.8% 80.4%	26.2% 19.6%	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that majority of the Site and footprint of the proposed Small House falls within the ‘VE’ of Tai Tong Wu Village.
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> - Land required to meet Small House demand in Tai Tong Wu Village village cluster: about 3.23 ha (equivalent to 129 Small House sites). The number of outstanding Small House applications for Tai Tong Wu Village village cluster is 19 ³ while the 10-year Small House demand forecast for the same village is 110.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Tai Tong Wu Village village cluster: about 1.27 ha (equivalent to 50 Small House sites) (Plan A-2b).
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

³ Among the 19 outstanding Small House applications, 10 of them fall within the “V” zone and nine straddle or outside the “V” zone. For those nine applications straddle or being outside the “V” zone, five of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 characterized by village houses, fallow/active agricultural land, vegetated areas and tree clusters.
6.	Within Water Gathering Grounds? (WGGs)		✓	- 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?		✓	
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 'NTEH – 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. - Notwithstanding the above, the application only involves construction of one Small House. He considers that the application can be tolerated unless it is 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.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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 development is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that he has consulted the locals. The Resident Representative (RR) of Tai Tong Wu Village and other consultees, including the Chairman of Sha Tau Kok District Rural Committee, the incumbent North District Councilor of N16 Constituency and the Indigenous Inhabitant Representative (IIR) of Tai Tong Wu Village, have no comment on 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.

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

On 20.1.2023, the application was published for public inspection. During the statutory public inspection period, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual raises objection to the application mainly on the ground that land is still available within the “V” zone to meet the future Small House demand; and approval would lead to unfettered expansion of Small House development and inefficient use of land. Detailed comments from public inspection are at **Appendix VI**.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House on the Site which falls entirely within “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 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 The Site is situated in an areas of rural inland plains landscape character surrounded by village houses and agricultural land. The proposed Small House development is not incompatible with the surrounding areas. 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 only, the application could be tolerated. Other relevant government departments, including CEDD, DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House applications for Tai Tong Wu Village is 19 while the 10-year Small House demand forecast is 110. Based on PlanD’s latest estimate, about 1.27 ha (equivalent to 50 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, more weighting has been put on the number of outstanding Small House applications as provided by LandsD. As such, 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. Nevertheless, it is noted that there are approved Small House applications at different stages of development nearby, the implementation of which are forming a new village cluster in the locality (**Plan A-2a**). Besides, the Site is the subject of a previous approved application submitted by the same applicant. Compared with the previous application, the major development parameters and footprints of the proposed Small House under the current application are generally the same. In this regard, sympathetic consideration might be given to the application.
- 11.4 There were 22 similar applications for Small House developments in the vicinity of the Sites. Amongst them, 12 were approved by the Committee between January 2016 and February 2023 after the Board’s formal adoption of a more cautious approach mainly on the grounds that the Sites were located in close proximity to the existing village cluster of Tai Tong Wu Village; there were approved Small House applications nearby forming a new cluster in the locality; and/or the Sites were the subject of previous approved applications submitted by the same applicants. The planning circumstances of the current applications are similar to these approved applications.
- 11.5 Regarding the public comments mentioned in paragraph 10 above, the 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 3.3.2027, 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 condition 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:
- 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.

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

Appendix I	Application Form with attachments received on 11.1.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Previous Application
Appendix IV	Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses

Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Tai Tong Wu Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**