

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/711

Applicant : Mr. YEUNG Dor Loi represented by Mr. YIK Wai Tung

Site : Lot 656 in D.D. 82, Lei Uk Village, Ta Kwu Ling, New Territories

Site Area : 193.7m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14

Zoning : “Agriculture” (“AGR”)

Application : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself as an indigenous villager¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Lei Uk Village, Ta Kwu Ling (**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 which requires planning permission from the Town Planning Board (the Board). The Site is currently covered with overgrown grass.

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 on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as circulation area.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Fung Wong Wu Village, Ta Kwu Ling Heung. 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-TKL/493 for the same use approved by the Rural and New Town Planning Committee (the Committee) on 12.12.2014. Details are in paragraph 5.1.

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

- (a) Application Form with attachments received on 17.11.2022 (Appendix I)
- (b) Supplementary Information (SI) received on 18.11.2022 (Appendix Ia)

2. Justifications from the Applicant

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

- (a) the Site is the only land owned by the applicant for Small House development;
- (b) the applicant, being an indigenous villager, is entitled to build a Small House under the current Small House Policy; and
- (c) the Site falls within the village 'environs' ('VE') of Lei Uk Village. There are approved applications for Small House development in the vicinity of the Site.

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-TKL/493 submitted by the same applicant for the same use, which was approved by the Committee on 12.12.2014 before the formal adoption of a more cautious approach by the Board in August 2015 mainly on the grounds 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 cause significant adverse impacts on the surrounding areas. The validity of the planning permission was extended once until 12.12.2022 under the application (No. A/NE-TKL/493-1). The planning permission lapsed on 13.12.2022.

5.2 Details of the previous application are summarized at **Appendix III**.

6. Similar Applications

- 6.1 There have been 12 similar applications for Small House development within/partly within the “AGR” zone in the close vicinity of the Site in the Ta Kwu Ling area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Eight applications were approved by the Committee between 2002 and 2011, before the formal adoption of a more cautious approach by the Board, mainly on the grounds that the applications complied with the Interim Criteria in that the concerned sites were located within the ‘VE’ of Lei Uk Tsuen where there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; and the proposed Small House developments would unlikely have significant adverse environment, drainage and traffic impacts on the surrounding areas.
- 6.3 The remaining four applications (No. A/NE-TKL/591 to 594) were rejected by the Board on review in October 2018 after the formal adoption of a more cautious approach by the Board mainly on the grounds that the application was not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Lei Uk Village where land was primarily intended for Small House Development.
- 6.4 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, A-2a and A-2b, aerial photo on Plan A-3 and site photos on Plan A-4)

7.1 The Site is:

- (a) covered with overgrown grass;
- (b) located to the east of the village proper of Lei Uk Village; and
- (c) accessible via a local village track.

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 immediate north is a footpath, and to the further east is section of Ping Yuen River; and
- (c) to the west are existing village houses under approved applications for Small House development.

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	100% 100%	- -	- 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 Lei Uk.
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 Lei Uk Tsuen: about 4.25 ha (equivalent to 170 Small House sites). The outstanding Small House applications for Lei Uk are 45 while the 10-year Small House demand forecast for the same village is 125.
	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 Lei Uk Village: about 1.58 ha (equivalent to 63 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 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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?		✓	
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) considers that the application only involving development of one Small House can be tolerated on traffic 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 development is not anticipated.
13.	Local objection conveyed by DO?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that the Chairman of Ta Kwu Ling District Rural Committee, the Chairman of Fung Shui Area Committee, the incumbent North District Councilor of N16 Constituency, the Indigenous Inhabitant Representative and the Resident Representative of Lei Uk 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 25.11.2022, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Kadoorie Farm and Botanic Garden, World Wide Fund for Nature Hong Kong, and two individuals object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone for Small House development; the Site is suitable for cultivation; the proposed development would cause adverse traffic and environmental impacts; and the proposed development would increase fire risks.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House on 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 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, active/fallow farmlands, vegetated areas and tree clusters. The proposed Small House development is not incompatible with the surrounding areas (**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.
- 11.3 Regarding the Interim Criteria, according to DLO/N of LandsD, the number of outstanding Small House for Lei Uk Village is 45 while the 10-year Small House demand forecast is 125. Based on PlanD’s latest estimate, about 1.58 ha (equivalent to 63 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 in 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. Nevertheless, the Site is the subject of previous approved application (No. A/NE-TKL/493) submitted by the same applicant and the planning permission was extended once until December 2022. Since the Small House grant application is still being processed by LandsD, sympathetic consideration might be given to the application.

- 11.4 There are 12 similar applications within the same “AGR” zone, of which eight were approved between 2002 and 2011 before the formal adoption of a more cautious approach by the Board. The remaining four applications (No. A/NE-TKL/591 to 594) were rejected by the Board on review in October 2018 after the formal adoption of a more cautious approach by the Board mainly on the grounds that the application was not in line with the planning intention of the “AGR” zone; and land was still available within the “V” zone of Lei Uk Village where land was primarily intended for Small House development. The Site is the subject of a previous approved application submitted by the same applicant and his Small House application is under processing by LandsD, sympathetic consideration might be given to the application. Hence, the planning circumstances of the current application are different from the rejected applications.
- 11.5 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 13.1.2027, 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 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 Lei Uk 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

Appendix I	Application Form with attachments received on 17.11.2022
Appendix Ia	SI received on 18.11.2022
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 Lei Uk Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos