

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/723

<u>Applicant</u>	:	Mr. LEE Bon Sin
<u>Site</u>	:	Lot 662 S.B in D.D. 82, Lei Uk Village, Ta Kwu Ling, New Territories
<u>Site Area</u>	:	About 114.2m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims himself to be an indigenous villager of Lei Uk Village¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Lei Uk 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 and overgrown with grass.

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

Total Floor Area	:	About 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 a 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 Lei Uk Village. His eligibility for Small House grant is yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**).

2. Justifications from the Applicant

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

- the proposed Small House will be used to accommodate his large size family.

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

There is no previous application for the Site.

6. Similar Applications

- 6.1 There were 15 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 11 approved applications, ten applications (No. A/NE-TKL/216, 218, 221, 222, 223, 359, 360, 361, 466 and 493) were approved with conditions by the Committee between September 2002 and December 2014 (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 Village Environs (‘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 One application (No. A/NE-TKL/711) was approved by the Committee on 13.1.2023 (i.e. after the formal adoption of a more cautious approach since August 2015) mainly on

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.

sympathetic consideration that the Site was the subject of a previous approval submitted by the same applicant.

- 6.4 Four applications (No. A/NE-TKL/591, 592, 593 and 594) were rejected by the Board on review on 26.10.2018 after the formal adoption of a more cautious approach since August 2015, mainly on the grounds that the applications were 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.
- 6.5 Details of the similar applications are summarized at **Appendix III** 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) vacant and overgrown with grass; and
- (b) accessible via a local road.

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 Lei Uk Village.

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	-	100%	- The Site and 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'?			
	- The Site	100%	-	- District Lands Officer/North, Lands Department (DLO/N, LandsD) advises that the Site and footprint of the proposed Small House falls within the 'VE' of Chow Tin Tsuen, Fung Wong Wu & Lei Uk Village.
	- Footprint of the proposed Small House	100%	-	
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 Village village cluster: about 3.85 ha (equivalent to 154 Small House sites). The number of outstanding Small House applications for Lei Uk Village village cluster is 44 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 Lei Uk Village village cluster: about 1.56 ha (equivalent to 62 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. There are active/fallow agricultural lands in the area. 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.
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?		✓	

³ Among the 44 outstanding Small House applications, 15 of them fall within the "V" zone and 29 straddle or outside the "V" zone. For 29 applications straddling or falling outside the "V" zone, only one has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 could 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 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 Lei Uk Village objects the application mainly on the grounds that there were some rejected Small House applications outside "V" zone in the vicinity due to the land within "V" zone is still available, the approval of the application would be unfair to those

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>applicants of the rejected Small House applications outside “V” zone.</p> <ul style="list-style-type: none"> - The Indigenous Inhabitant Representative (IIR) of Lei Uk Village supports the application. - The incumbent North District Councilor of N16 Constituency and the Chairman of Fung Shui Area Committee have no comment on the application. - The Chairman of Ta Kwu Ling District Rural Committee did not reply to the consultation.

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

- (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 V)

On 11.4.2023, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comments on the application. An individual objects on the application mainly on the grounds that there is no previous approved application at the Site; and the land in “V” zone is sufficient to meet the Small House demand. The Kadoorie Farm and Botanic Garden Corporation raises concern on the application mainly on the grounds that the land availability in the “V” zone of Lei Uk Village should be taken into account on the decision.

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. There are active/fallow agricultural land in the area. 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.

- 11.2 The Site is situated in an areas of rural landscape character predominated by village houses and fallow 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 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 Lei Uk Village is 44 while the 10-year Small House demand forecast is 110. Based on PlanD’s latest estimate, about 1.56 ha (equivalent to 62 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 existing Small House approval under applications (No. A/NE-TKL/218, 221, 222, 223, 359, 360 and 361) at the fringe of Lei Uk Village settlement along the eastern boundary of the “V” zone. The Site is sandwiched between the approved applications No. A/NE-TKL/221 to its immediate north and No. A/NE-TKL/359 to its southeast, occupying the residual area of this small cluster. As such, the scope of extending the cluster to the east is limited, sympathetic consideration might be given to the application.
- 11.4 There were 15 similar applications for Small House developments in the vicinity of the Site. Amongst them, five applications (A/NE-TKL/591, 592, 593, 594 and 711) were considered after the Board’s formal adoption of a more cautious approach after August 2015. Application No. A/NE-TKL/711 was approved by the Committee on January 2023 mainly on the ground that the Site was the subject of previous approved application submitted by the same applicant. Applications No. A/NE-TKL/591, 592, 593 and 594 were rejected by the Board on review on October 2018 mainly on the grounds that the applications were 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.
- 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 19.5.2027, 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 VI**.

- 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 3.4.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	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

PLANNING DEPARTMENT
MAY 2023