

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/700

- Applicants** : Mr. CHEUNG Tat Wah (House 1)
Mr. LEE Wing On Simon (House 2)

Both represented by Mr. LEUNG Pak Keung
- Site** : Lot 654 S.O in D.D. 15, Shan Liu, Tai Po (House 1)

Lot 654 S.N in D.D. 15, Shan Liu, Tai Po (House 2)
- Site Area** : 249.1 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
- Zonings** : “Village Type Development” (“V”) (about 57%)
“Agriculture” (“AGR”) (about 43%)

[Site of House 1: “V” (about 52%); “AGR” (about 48%)
Site of House 2: “V” (about 63%); “AGR” (about 37%)]
- Application** : Proposed Two Houses (New Territories Exempted Houses (NTEHs) – Small Houses)

1. The Proposal

- 1.1 The applicants, who claim to be indigenous villagers of Sha Lo Tung Cheung Uk Village and Lei Uk Village respectively¹, seek planning permission to build two NTEHs (Small Houses) on the application site (the Site) (**Plans A-1 and A-2a**). The Site straddles between the “V” zone and “AGR” zone on the approved Ting Kok OZP No. S/NE-TK/19. According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted in the “V” zone, such use in the “AGR” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently vacant.

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants’ eligibility for Small House concessionary grant has been confirmed.

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

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

- 1.3 The uncovered area of the Site is proposed to be used for garden purpose. The applicants propose to connect the Site with an existing public sewer nearby. The layout of the proposed Small Houses and connection with the public sewer is shown on **Drawings A-1 and A-2**.
- 1.4 The Site is part of the subject of a previous application No. A/NE-TK/421 (for seven NTEHs (Small Houses)) submitted by various applicants including those of the current application, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 21.12.2012. Class B amendments involving changes in site area/site boundary and the disposition of building blocks were approved on 23.10.2013 (A/NE-TK/421-1). The validity period of the planning permission was extended twice for a total period of four years until 21.12.2020. Compared with the previous application under A/NE-TK/421-1, the current application covers only two NTEHs (Small Houses)² with no change to the development parameters and Small House footprints.
- 1.5 In support of the application, the applicants have submitted the Application Form with attachments (**Appendix I**) received on 27.1.2021.

2. Justifications from the Applicants

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

- (a) the current application (for two houses) is part of the subject of a previous application No. A/NE-TK/421-1 (for seven houses). As it has taken some time for the Lands Department to process the Small House grant applications, and the validity period of the planning permission cannot be further extended, the applicants need to submit a fresh planning application to facilitate further processing of Small House grant applications;
- (b) the application only involves two houses under the previously approved application No. A/NE-TK/421-1 as the other five houses under the previous application have either been granted with building licenses by or fallen within an area subsequently rezoned as “V”;
- (c) the site area, development parameters, building disposition and the surrounding environment of the two houses under application are the same as the previous application;

² For the remaining five NTEHs, three sites are included into “V” zone upon an amendment to the OZP on 9.1.2015 and the remaining two sites have been granted with building licenses by Lands Department.

- (d) the submission part of the approval conditions under the previously approved application has been considered acceptable by the relevant government departments. Should this application be approved, the applicants undertake to continue to follow any requirements by the relevant government departments accordingly; and
- (e) the proposed houses would not cause any adverse environmental, drainage, sewerage, firefighting and landscape impacts.

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

The applicants are the sole “current land owners” of the subject lots. 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 and had been amended four times. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

5. Previous Application

- 5.1 The Site is the subject of three previous applications (No. A/NE-TK/167, 272 and 421) for Small House developments.
- 5.2 Applications No. A/NE-TK/167 and 272 were submitted by the applicant of House 2 under current application, covering the same site of House 2. They were rejected by the Board on review on 12.12.2003 and 17.4.2009 respectively mainly for reasons of not complying with the Interim Criteria in that the sites being located within WGG were not able to be connected to the planned public sewerage system; insufficient information to demonstrate no adverse impact on water quality in the area; and setting of undesirable precedent for similar applications.
- 5.3 Application No. A/NE-TK/421 covering a larger site for proposed seven Small Houses were submitted by various applicants including the two under current application, which were approved with conditions by the Committee on 21.12.2012 mainly on the considerations that the proposed development complies with the Interim Criteria as the proposed Small Houses can be connected to the planned public sewerage system, are located entirely within the village ‘environs’ (‘VE’) and there was a general shortage of land to meet Small House demand at the time of consideration. Class B amendments involving changes in site area/site boundary and the disposition of building blocks were approved on 23.10.2013 (A/NE-TK/421-1). The validity period of the planning permission was extended twice for a total period of four years until 21.12.2020. For compliance with approval conditions, the applicant has submitted proposals to the satisfaction of relevant departments. Compared with this previous application, the current application covers only two houses with no change to the development

parameters and Small House footprints.

- 5.4 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. Similar Applications

- 6.1 There are 39 similar applications in the vicinity of the Site for Small House development within/partly within the same “AGR” zone (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 26 applications (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 422, 423, 428, 431, 434, 439, 452, 463, 467, 468, 471, 474, 477, 483, 510, 528, 529, 561 and 562) were approved with conditions by the Committee between 2009 and 2015 before the Board’s adoption of a more cautious approach in considering Small House applications in recent years. They were approved mainly on the considerations that more than 50% of the proposed Small House footprint fell within the ‘VE’; there was a general shortage of land to meet the demand for Small House development in the “V” zone at the time of consideration; the proposed Small House could be connected to the planned/existing public sewerage system in the area; and/or the application sites involved previous approvals.
- 6.3 One application No. A/NE-TK/657 was approved by the Committee in 2018 after the Board’s adoption of a more cautious approach in considering Small House applications, mainly on sympathetic considerations that the site is located entirely within the ‘VE’ and was subject of a previous approval, and the proposed development can be connected to the existing public sewerage system. Furthermore, a number of approved planning applications and approved Small House grant applications are located in close proximity to the Site, which has formed a new cluster of Small Houses within the ‘VE’ limit.
- 6.4 A total of 12 applications (No. A/NE-TK/183, 288, 318, 357, 388, 390, 410, 414, 462, 509, 525 and 526) were rejected by the Committee or the Board on review between 2003 and 2015 mainly for reasons of not complying with Interim Criteria that the sites were unable to be connected to the planned/existing public sewerage system; more than 50% of the proposed Small House footprint fell outside the “V” zone/‘VE’; and/or the proposed developments would cause adverse water quality/ landscape/ drainage impacts in the area.
- 6.5 There is another application for two NTEHs (Small Houses) (No. A/NE-TK/701), which will be considered by the Committee at the same meeting with the current application.
- 6.6 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a and A-2b, A-3 and A-4)

- 7.1 The Site is:

(a) currently vacant and sparsely covered with weeds;

- (b) located entirely within the ‘VE’ of Shan Liu Village;
- (c) straddle between the upper and lower indirect WGG; and
- (d) accessible via a local track leading to Shan Liu Road off Ting Kok Road.

7.2 The surrounding areas have the following characteristics:

- (a) situated in an area on the upper foothills between Pat Sin Leng Country Park and Ting Kok Village, and surrounded by hills, valleys, vegetated areas and fallow agricultural land; and
- (b) the areas in the immediate neighbourhood of the Site are largely vacant, comprising many sites with planning approvals for Small House development and/or under Small House grant applications approved/ being processed by Lands Department (**Plans A-2a and A-2b**).

8. Planning Intentions

- 8.1 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 8.2 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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			
	- The Site			
	➤ House 1	52%		
	➤ House 2	63%		About 61.7m ² (48%) of the Site for House 1 and 45.2m ² (37%) of the Site for House 2 falls within “AGR” zone.
	- Footprint of the proposed Small Houses			
	➤ House 1	73%		
	➤ House 2	87%		About 17.3m ² (27%) of the footprint of House 1 and 8.2m ² (13%) of the footprint of House 2 falls within the “AGR” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - The Site <ul style="list-style-type: none"> ➤ House 1 ➤ House 2 - Footprint of the proposed Small Houses <ul style="list-style-type: none"> ➤ House 1 ➤ House 2 	<p>100%</p> <p>100%</p> <p>100%</p> <p>100%</p>		<ul style="list-style-type: none"> - The Site and the Small House footprints fall entirely within the ‘VE’ of Shan Liu (Plan A-1). - The District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Shan Liu: about 6.65 ha (equivalent to 266 Small House sites). The outstanding Small House applications for Shan Liu are 16³ while the 10-year Small House demand forecast for the same village is 250.
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> - Land available to meet the Small House demand within the “V” zone of Shan Liu: about 0.9 ha (equivalent to 36 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	<ul style="list-style-type: none"> - Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agriculture point of view as the Site possesses potential for agricultural rehabilitation, with active agricultural activities in the vicinity and agricultural infrastructures such as road access and water source available.

³ Among the 16 outstanding Small House applications, 6 of them fall entirely within the “V” zone and 10 of them straddle or fall outside the “V” zone. For those 10 applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		- The proposed Small Houses are not incompatible with the surrounding areas which are mainly vacant land and vegetated areas. The areas in the immediate neighbourhood of the Site comprise many sites with planning approvals for Small House development and/or under Small House grant applications approved/being processed by LandsD.
6.	Within Water Gathering Grounds (WGGs)?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed houses would be able to be connected to the public sewerage system. - The applicants should be required to connect the proposed Small Houses to public sewers and provide protective and mitigation measures to ensure no pollution and siltation occurs in the WGG.
7.	Environmental and Sewerage impact?	✓		- Director of Environmental Protection (DEP) notes that the Site is able to be connected to the existing public sewer at Shan Liu Village and has no comment on the sewer connection proposal. He has no objection to the application provided that the proposed houses will be connected with public sewer by the applicants as proposed.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service 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) has reservation on the application and advises that Small House development should be confined within the “V” zone as far as

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				possible. Notwithstanding the above, the application involving only two Small Houses can be tolerated unless being rejected on other grounds.
11.	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.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view as significant adverse landscape impact arising from the proposed development is not anticipated.
13.	Local objections received from DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Chief Engineer/Mainland North, Drainage Services Department;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Director of Environmental Protection;
- (g) Director of Fire Services; and
- (h) Chief Town Planner/Urban Design and Landscape, Planning Department.

9.3 The following government departments have no objection to or no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) District Officer/Tai Po, Home Affairs Department.

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

On 2.2.2021, the application was published for public inspection. During the statutory public inspection period, two public comments were received. One individual indicates objection to the application on the ground that land is still available within the “V” zone. Another commenter, Designing Hong Kong Limited, objects to the application mainly for reasons that the proposed Small House development is not in line with the planning intention of the “AGR” zone; land is still available within the “V” zone of Shan Liu; and approval of the application would set an undesirable precedent leading to a general degradation of the rural environment of the area.

11. Planning Considerations and Assessments

- 11.1 The application is for two proposed Small Houses at the Site falling within an area zoned partly “V” (about 57%) and partly “AGR” (about 43%) 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 agricultural infrastructure such as road access and water source are available, and the Site possesses potential for agricultural rehabilitation.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Shan Liu Village is 16 while the 10-year Small House demand forecast for the village is 250. Based on the latest estimate by the PlanD, about 0.9 ha (or equivalent to about 36 Small House sites) of land are available within the “V” zone of Shan Liu. As the footprints of both proposed Small Houses fall entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site is vacant and sparsely covered with weeds, and is located in an area of settled valleys landscape character surrounded by vacant land and vegetated areas. Many sites in close proximity are subject of planning approvals for Small House development and/or Small House grant applications approved/being processed by LandsD. The proposed Small Houses under current application are not incompatible with the surrounding areas (**Plan A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as significant adverse impact on landscape resources within the Site is not anticipated. C for T has reservation on the application but considers that the application involving development of only two Small Houses can be tolerated.
- 11.4 The Site is located within the lower indirect WGG and the applicants have proposed to connect the proposed Small House with the existing public sewerage system nearby (**Plan A-2a**). DEP has no objection to the application provided that the proposed Small Houses will be connected with the public sewer nearby as proposed by the applicants. CE/C of WSD has no objection to the application and advises that the applicant should provide adequate protective and mitigation measures to ensure no pollution and siltation occurs in the WGG. CE/MN of DSD has no in-principle objection to the application but

advises that the applicant should submit and implement drainage proposal to ensure no stormwater drainage impact. To address these technical concerns, relevant approval conditions are recommended in paragraphs 12.2 (a) to (c) below should the application be approved by the Committee. Other concerned Government departments, including CHE/NTE of HyD, PM/N and Head/GEO of CEDD and D of FS have no objection to/adverse comment on the application.

- 11.5 Regarding the Interim Criteria (**Appendix II**), the proposed Small House footprints fall entirely within the 'VE' of Shan Liu and the proposed development located within WGG would be able to be connected to the existing public sewerage system (**Plan A-2a**). While land available within the "V" zone (about 0.9 ha or equivalent to 36 Small House sites) is insufficient to fully meet the future Small House demand of 266 Small Houses, such available land is capable to meet the 16 outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving application 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. In this regard, 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 part of the subject of a previous planning approval (No. A/NE-TK/421) given in 2012 to various applicants including the two under current application for development of seven Small Houses, with Class B amendments approved on 23.10.2013 (No. A/NE-TK/421-1). This previous planning approval has lapsed on 22.12.2020. Compared with the previously approved scheme under No. A/NE-TK/421-1, the current application covers only two houses with no change to the development parameters and Small House footprints. As advised by DLO/TP of LandsD, the Small House grant applications submitted by the applicants have been approved in-principle pending the applicants' submission of drainage proposal to the satisfaction of the relevant department. The processing of Small House grants is already at an advance stage. Furthermore, the Site is surrounded in the immediate neighbourhood by areas with planning approvals for Small House development and under Small House grant applications approved by Lands Department (**Plan A-2a**), which will form a new cluster of Small Houses within the 'VE' limit. Sympathetic consideration might be given to the current application.
- 11.6 There are 39 similar applications within the same "AGR" zone. A total of 12 applications (No. A/NE-TK/183, 288, 318, 357, 388, 390, 410, 414, 462, 509, 525 and 526) were rejected by the Committee or the Board on review between 2005 and 2015 mainly for reasons of being unable to be connected to the planned/existing public sewerage system in the area; and/or more than 50% of the proposed Small House footprint fell outside the "V" zone/'VE'. Among the approved applications, 26 applications (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 422, 423, 428, 431, 434, 439, 452, 463, 467, 468, 471, 474, 477, 483, 510, 528, 529, 561 and 562) were approved with conditions by the Committee between 2009 and 2015 before the Board's adoption of a more cautious approach in considering Small House applications, mainly on the considerations that more than 50% of the proposed Small House footprint fell within the 'VE'; there was a general shortage of land to meet the demand for Small House development in the "V" zone at the time of consideration; the proposed Small Houses could be connected to the planned/existing public sewerage system in the area; and/or the application sites involved previous approvals. The remaining application (No.

A/NE-TK/657) was approved by the Committee after the Board's adoption of a more cautious approach in considering Small House applications, mainly on sympathetic considerations that the site was located in a cluster of Small Houses with planning approvals and/or approved Small House grants, within the 'VE' limit, was subject of a previous approval, and the proposed development can be connected to the existing public sewerage system. The circumstances of this latest previous application are largely applicable to the current application.

- 11.7 Regarding the objecting public comments mentioned in paragraph 10, comments of the concerned government departments 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, 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 26.3.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted has commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective and mitigation measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies 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. 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 current submission for a departure from the planning intention; and

- (b) land is still available within the “V” zone of Shan Liu which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure 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 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 27.1.2021
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories
Appendix III	Previous Applications covering the Application Site on the Ting Kok Outline Zoning Plan
Appendix IV	Similar Applications within the same “AGR” zone on the Ting Kok Outline Zoning Plan
Appendix V	Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 and A-2	Proposed Small House Layout Plans submitted by the applicants
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Shan Liu for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**