

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

**APPLICATION NO. A/NE-TK/738**

<b><u>Applicant</u></b>	Mr. LEUNG Steven Kwok Fung represented by Mr. LEUNG Pak Keung
<b><u>Site</u></b>	Lots 654 S.T ss.1 RP, 654 S.T ss.3 RP, 654 S.T ss.4, 654 S.U ss.3 RP, 654 S.U ss.4 S.A and 654 S.U RP in D.D. 15 and adjoining government land, Shan Liu, Tai Po
<b><u>Site Area</u></b>	About 100.04 m <sup>2</sup> (including about 50.99 m <sup>2</sup> of government land)
<b><u>Lease</u></b>	Block Government Lease demised for agricultural purpose
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zonings</u></b>	“Agriculture” (“AGR”) (about 75%) and “Green Belt” (“GB”) (about 25%)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who is an indigenous villager of Shan Liu Village<sup>1</sup> as confirmed by the respective Indigenous Inhabitant Representative (IIR), seeks planning permission to build a NTEH (Small House) on the Site (**Plans A-1 and A-2a**). The Site falls within an area partly zoned “AGR” and partly zoned “GB” on the approved Ting Kok OZP No. S/NE-TK/19. 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)’ within “AGR” zone and ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within “GB” zone are Column 2 uses 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 The Site is accessible by a local vehicular track connecting to Shan Liu Road.

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<sup>1</sup> According to District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), the applicant is eligible for Small House grant.

The uncovered area of the Site is proposed to be used for garden purpose. The applicant proposes to connect the Site with an existing public sewer nearby. The layout of the proposed Small House and connection with the public sewer is shown on **Drawing A-1**.

- 1.4 The Site is the subject of a previous application No. A/NE-TK/477 for a NTEH (Small House) submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.11.2013. The validity period of the planning permission was extended twice for a total period of 4 years until 22.11.2021. The proposal under current application is the same as the previously approved case in terms of site boundary, development parameters and footprint.
- 1.5 In support of the application, the applicants have submitted the application form with attachments (**Appendix I**) received on 26.11.2021.

## **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 summarized as follows:

- (a) the current application is the subject of a previous application (No. A/NE-TK/477). As it takes time for LandsD to process Small House grant applications, and the validity period of the planning permission could not be further extended, the applicant submits a fresh planning application to facilitate further processing of the Small House grant application for the Site;
- (b) the site area, development parameters, building disposition and the surrounding environment of the house under application are the same as the previously approved application;
- (c) the submission part of approval conditions on landscape and drainage proposals under the previously approved application were considered acceptable by the relevant government departments. Should this application be approved, the applicant will continue to undertake the requirements set out by the relevant government departments; and
- (d) the proposed Small House will not cause adverse environmental, drainage, sewerage, firefighting and landscape impacts, and will not frustrate the planning intention of the area.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection. As for the government land, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable.

#### **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 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 promulgated on 7.9.2007 is at **Appendix II**.

#### **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' is relevant to this application. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development in the "GB" zone;
- (b) applications for new development in "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

#### **6. Previous Application**

- 6.1 The Site is the subject of a previous application (No. A/NE-TK/477) for the same use submitted by the same applicant. The previous application was approved with conditions by the Committee on 22.11.2013 mainly on the considerations that the proposed Small House footprint fell entirely within the

village 'environs' ('VE'); there was a general shortage of land to meet Small House demand at the time of consideration; and the proposed Small House could be connected to the planned public sewerage system. The validity period of the planning permission was extended twice for a total period of 4 years until 22.11.2021. The proposal under current application is the same as the previously approved case in terms of site boundary, development parameters and footprint.

- 6.2 Details of the previous application are summarised at **Appendix III** and its location is shown on **Plan A-2a**.

## **7. Similar Applications**

- 7.1 There have been 54 similar applications in close proximity to the Site (including 23 wholly within "AGR" zone, 11 wholly within "GB" zone, 10 straddling on "AGR and "GB" zones and 10 straddling on "AGR" and "V" zones) since the first promulgation of the Interim Criteria on 24.11.2000. Of them, 30 cases were approved and 24 were rejected.
- 7.2 Among the 30 approved applications, 27 (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 421-423, 428, 431, 434, 439, 452, 463, 467-468, 471, 474, 483, 510-511, 528, 529, 561 and 562) were approved between 2009 and 2015 before the Board's adoption of a more cautious approach in approving applications for Small House development 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 being the subject of a previously approved application. Three applications (No. A/NE-TK/657, 700 and 701) were approved between 2018 and 2021 after the Board's adoption of a more cautious approach in considering Small House applications, mainly on sympathetic considerations of locating entirely within the 'VE' and an area with a new cluster of Small Houses being formed through approved planning applications and Small House grant applications; being the subject of a previously approved application; and that the proposed development could be connected to the existing public sewerage system.
- 7.3 A total of 24 applications (No. A/NE-TK/167, 183, 184, 187-189, 272, 286, 288, 318, 329, 354, 357, 388, 389, 390, 406, 410, 414, 462, 470, 509, 525 and 526) were rejected by the Committee or the Board on review between 2003 and 2015 before the Board's adoption of a more cautious approach in approving applications for Small House development. These applications were rejected mainly on the grounds that the proposed development was unable to connect to the planned/existing public sewerage system; more than 50% of the proposed Small House footprint fell outside the "V" zone/'VE'; the proposed development would cause adverse water quality/landscape/slope stability/drainage impacts in the area; and/or setting an undesirable precedent for other similar applications.

- 7.4 There is another application for a NTEH (Small House) (No. A/NE-TK/737), which will be considered by the Committee at the same meeting with the current application.
- 7.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

**8. The Site and Its Surrounding Areas (Plans A-1, A-2a, and photos on Plans A-3 and A-4)**

- 8.1 The Site is:
- (a) currently vacant with no vegetation cover;
  - (b) located entirely within the ‘VE’ of Shan Liu;
  - (c) within the lower indirect Water Gathering Ground (WGG); and
  - (d) accessible by a local track leading to Shan Liu Road off Ting Kok Road.
- 8.2 The areas in the immediate neighbourhood of the Site are largely vacant, comprising many sites with planning approvals for Small House developments and/or under Small House grant applications approved/being processed by LandsD. Construction works are in progress for some of the approved Small Houses. Further north are the upper foothills of Pat Sin Leng with dense vegetation.

**9. Planning Intentions**

- 9.1 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.
- 9.2 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

**10. Comments from Relevant Government Departments**

- 10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized 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 - Footprint of the proposed Small House	- -	100% 100%	- The Site falls partly within the “AGR” zone (75%) and partly within the “GB” zone (25%).
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- The Site and the Small House footprint fall entirely within the ‘VE’ of Shan Liu. ( <b>Plans A-1 and A-2</b> )  - DLO/TP, LandsD has no objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand forecast)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Shan Liu: about 6.50 ha (equivalent to 260 Small House sites). The outstanding Small House applications for Shan Liu are 10 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 250.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Shan Liu: about 0.97 ha (equivalent to 38 Small House sites) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intentions of “AGR” and “GB” zones?		✓	- 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.  - There is a general presumption against development within the “GB” zone.

<sup>2</sup> Among the 10 outstanding Small House applications, 5 of them fall entirely within the “V” zone and 5 of them straddle or fall outside the “V” zone. For those 5 applications straddling or being outside the “V” zone, one of them (Application No. A/NE-TK/657) has 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>
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is 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 provided that the applicant will connect the whole of the foul water drainage systems to a public sewerage system. The applicant should be required to provide protective measures to ensure that no pollution and siltation occurs to the WGG.
7.	Environmental and Sewerage impact?		✓	- Director of Environmental Protection (DEP) has no in-principle objection to the application provided that the applicant will connect the Small House to the existing public sewer at his own costs and reserve adequate land for the sewer connection work.
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 possible. Notwithstanding the above, the application involving only development of a Small House can be tolerated unless being rejected on

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				other grounds.
11.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application subject to the incorporation of an approval condition requiring the submission and implementation of a drainage proposal.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application as significant adverse landscape impact arising from the proposed development is not anticipated, and the proposed development is considered not incompatible with the surrounding environment of the Site.
13.	Local objections received from DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix V**.

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

10.3 The following government departments have no objection to/no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (d) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).



**11. Public Comments Received During Statutory Publication Period**

On 3.12.2021, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

**12. Planning Considerations and Assessments**

- 12.1 This application is for a proposed Small House at the Site zoned partly “AGR” and partly “GB” on the OZP. The planning intention of the “AGR” zone 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; while that of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. The proposed development is not in line with the planning intention of the “AGR” and “GB” zones. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation.
- 12.2 According to DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Shan Liu Village is 10 while the 10-year Small House demand forecast is 250. Based on the latest estimate by PlanD, about 0.97 ha of land (or equivalent to about 38 Small House sites) is available within the “V” zone of Shan Liu. DLO/TP of LandsD has no objection to the application.
- 12.3 The Site is currently vacant with vegetation cover, and is located in an area comprising mainly vacant land and vegetated areas. Many sites in close proximity are subject of planning approvals for Small House development and/or Small House grants approved/being processed by LandsD (**Plan A-2a**). The proposed Small House under the current application is not incompatible with the surrounding landscape character (**Plan A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact arising from the proposed Small House is not anticipated.
- 12.4 The Site is located within the lower indirect WGG and the applicant has proposed to connect the proposed Small House with the existing public sewerage system nearby (**Plan A-2a**). DEP has no in-principle objection to the application provided that the applicant will connect the house to the existing public sewer at his own costs and reserve adequate land for the sewer connection work. CE/C of WSD has no objection to the application and advises that the applicant should provide adequate protective measures to ensure no pollution or siltation occurs to the WGG. CE/MN of DSD also has no in-principle objection to the application subject to the incorporation of an approval condition requiring the submission and implementation of a drainage proposal. To address these technical concerns, relevant approval conditions are recommended in paragraphs 13.2 (a) to (c) below should the application be approved by the Committee. C for T advises that the application involving only development of a Small House can be tolerated on traffic grounds. Other relevant Government

departments including D of FS, CHE/NTE of HyD, PM/N and H(GEO) of CEDD and DO/TP of HAD have no objection to nor adverse comment on the application.

- 12.5 Regarding the Interim Criteria (**Appendix II**), the proposed Small House footprint falls 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 0.97 ha or equivalent to about 38 Small House sites) is insufficient to fully meet the future Small House demand (about 6.50 ha or equivalent to about 260 Small House sites), such available land is capable to meet the outstanding 10 Small House applications. The Board has adopted a more cautious approach in approving 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, more weighting has been put on the number of outstanding Small House applications provided by LandsD. Nevertheless, the Site is part of the subject of a previous planning approval (No. A/NE-TK/477) given in 2013 to the same applicant for development of a Small House. While this previous planning approval has lapsed on 23.11.2021, DLO/TP, LandsD advises that the Small House grant application for the Site has been approved pending execution. The proposal under current application is the same as the previously approved case in terms of site boundary, development parameters and footprint. 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 LandsD, which will form a new cluster of Small Houses within the ‘VE’ (**Plan A-2a**). In view of the above, sympathetic consideration might be given to the current application.
- 12.6 There are 54 similar applications located in close proximity to the Site within/partly within the same “AGR” and “GB” zones (**Plan A-2a**), with 30 cases approved and 24 rejected. Among the approved cases, 27 (No. A/NE-TK/295, 299, 305, 349, 358, 411, 416, 421-423, 428, 431, 434, 439, 452, 463, 467-468, 471, 474, 483, 510-511, 528, 529, 561 and 562) were approved before the Board’s adoption of a more cautious approach. For the three applications (No. A/NE-TK/657, 700 and 701) after the adoption of a more cautious approach, they were approved mainly on sympathetic considerations of locating entirely within the ‘VE’ and an area with a new cluster of Small Houses being formed through approved planning applications and Small House grant applications; being the subject of a previously approved application; and that the proposed development could be connected to the existing public sewerage system. The circumstances of current application are similar to these approved cases.
- 12.7 No public comment was received during statutory publication period.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12, Planning Department has no objection to this application.

- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 14.1.2026, 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 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 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 VI**.

- 13.3 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 intentions of the "AGR" and "GB" zones which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets respectively. There is no strong planning justification in the current submission for a departure from the planning intentions;
  - (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 the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application form and attachments received on 26.11.2021
<b>Appendix II</b>	Relevant Interim Criteria for Assessing Planning Applications 1 NTEH/Small House in New Territories
<b>Appendix III</b>	Previous application
<b>Appendix IV</b>	Similar applications
<b>Appendix V</b>	Detailed comments from relevant government departments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Layout Plan Submitted by the Applicant
<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 Shan Liu for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2022**