

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/787

<u>Applicant</u>	Mr. LEE Jonathan Jun Man represented by Mr. LEUNG Pak Keung
<u>Site</u>	Lots 646 S.K ss.1 and 652 S.C ss.1 in D.D. 15, Shan Liu, Tai Po
<u>Site Area</u>	About 89.1m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Sha Lo Tung Lei Uk of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR)¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site). The Site falls within an area zoned “AGR” on the approved Ting Kok OZP No. S/NE-TK/19 (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ within the “AGR” zone is a Column 2 use 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	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

1.3 The Site is accessible via a local track connecting to Shan Liu Road (**Plan A-1**). The uncovered area is proposed for garden purpose. The applicant proposes to connect the proposed development to an existing public sewer. The proposed Small House layout and sewerage connection proposal are shown in **Drawings A-1 to A-3**.

1.4 The Site is the subject of three previous applications (No. A/NE-TK/349, 422

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility for Small House grant is yet to be ascertained.

and 510) (**Plans A-1 and A-2a**) submitted by two different applicants for the same use, which were approved by the Rural and New Town Planning Committee (the Committee) in 2011, 2013 and 2014 respectively. Details of the previous applications are set out in paragraph 5 below.

- 1.5 In support of the application, the applicant has submitted an Application Form with attachments (**Appendix I**) which was received on 18.10.2023.

2. Justifications from the Applicant

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

- (a) the current application is the subject of a previously approved application (No. A/NE-TK/510) for Small House development. 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 at the Site;
- (b) the major development parameters, building disposition and the surrounding environment of the house under application are the same as the previously approved application;
- (c) for the previously approved application, Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) advised that landscape treatment is not necessary as there is insufficient space to provide shrubs or tree plantings within the Site. The submission part of the approval condition on drainage proposal was considered acceptable by Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD). CE/MN, DSD also had no adverse comment on the sewerage connection proposal submitted under the Small House grant application at the Site. Should this application be approved, the applicant will continue to undertake the necessary requirements; 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”. 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 Applications**

- 5.1 The Site is the subject of three previous applications (No. A/NE-TK/349, 422 and 510) (**Plan A-2a**) submitted by different applicants for the same use, which were approved by the Committee in 2011, 2013 and 2014 respectively. The previous applications were approved mainly on considerations of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the village 'environs' ('VE'); general shortage of land to meet the demand for Small House development within the "Village Type Development" ("V") zone at the time of consideration; and the proposed Small Houses could be connected to the existing/planned public sewerage system. The validity of the planning permission granted under the last previous application (No. A/NE-TK/510) was extended twice until 11.7.2022, and the planning permission lapsed on 12.7.2022.
- 5.2 Compared with the last previous application (No. A/NE-TK/510), the current one involves a smaller site (reduced from 96.5m² to 89.1m²). Other major development parameters and Small House footprint under the current application remains unchanged.
- 5.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

6. **Similar Applications**

- 6.1 There are 43 similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.1.2020. Out of them, 21 fall wholly within "AGR" zone, 12 straddle "AGR and "Green Belt" ("GB") zones and 10 straddle "AGR" and "V" zones. 29 of them were approved and the remaining 14 were rejected.
- 6.2 Among the 29 approved applications, 22 (No. A/NE-TK/295, 299, 305, 358, 411, 416, 421, 423, 428, 431, 434, 439, 452, 463, 467-468, 471, 474, 477, 483, 528 and 529) were approved between 2009 and early 2015 before the Board's formal adoption of a more cautious approach in considering applications for Small House development since August 2015. They were approved mainly on considerations similar to those set out in paragraph 5.1 above and/or being the subject of previously approved application(s). Seven applications (No. A/NE-TK/561, 562, 657, 700, 701, 737 and 738) were approved between late 2015 and 2022 after the Board's formal adoption of a more cautious approach. Notwithstanding that sufficient land was available within the "V" zone to meet the Small House demand at the time of consideration, these applications were approved mainly on sympathetic consideration of being located entirely/mostly 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 previously approved application(s); and that the proposed development could be connected to the existing public sewerage system.
- 6.3 A total of 14 applications (No. A/NE-TK/167, 183, 272, 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 before the Board's formal adoption of

a more cautious approach. 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 and/or drainage impacts in the area; and/or setting an undesirable precedent for other similar applications.

- 6.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

- 7.1 The Site is:

- (a) currently vacant and partly covered with vegetation;
- (b) mostly (about 89%) within the ‘VE’ of Shan Liu;
- (c) within the lower indirect Water Gathering Grounds (WGGs); and
- (d) accessible via a local track connecting to Shan Liu Road (**Plan A-1**).

- 7.2 The areas in the immediate neighbourhood of the Site are largely vacant, comprising approved Small House developments with works in progress in the north and west, and a number of approved Small House grants in the south (**Plans A-2a** and **A-3**). To the immediate east of the Site is the ‘VE’ limit of Shan Liu (**Plan A-2a**). Further north are the upper foothills of Pat Sin Leng with dense vegetation (**Plan A-3**).

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 summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			
	- Footprint of the proposed Small House	-	100%	- The Site and the proposed Small House footprint fall entirely within the “AGR” zone.
	- The Site	-	100%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	Within 'VE'? - Footprint of the proposed Small House - The Site	100% 89%	- 11%	- The proposed Small House footprint falls entirely within 'VE' of Shan Liu. - The Site falls mostly within 'VE' of Shan Liu.
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 6.48 ha (equivalent to 259 Small House sites). The outstanding Small House applications are 9 ² while the 10-year Small House demand forecast is 250.
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the "V" zone of Shan Liu: about 0.9 ha (equivalent to about 36 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 agriculture point of view as the Site possesses potential for agricultural rehabilitation, with agricultural infrastructures such as road access and water source available.
5.	Compatible with surrounding area/development?	✓		- The Site is situated in an area of settled valleys landscape character surrounded by vacant land, village houses, vegetated areas and woodland. The proposed use is considered not incompatible with the landscape character of its surroundings.
6.	Within 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 system to the public sewerage system. The applicant should be required to provide protective measures to ensure that no pollution and siltation occurs to the WGGs.

² Among the nine outstanding Small House applications in Shan Liu, five fall within the "V" zone and four outside. For cases falling outside the "V" zone, one of them has obtained valid planning approval (Application No. A/NE-TK/657) from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Environmental and Sewerage impact?		✓	- Director of Environmental Protection (DEP) has no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the Small House to the existing public sewer at his own costs and reserve adequate land for the sewer connection works.
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) considers 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 “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impacts could be substantial. Notwithstanding the above, the application only involves the development of one Small House and could be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective as significant adverse landscape impact on existing landscape resources arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Local objections conveyed by DO?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments and recommended advisory clauses are provided at **Appendices V and VI** respectively.

- (a) DLO/TP, LandsD;
- (b) DAFC;
- (c) CE/C of WSD;
- (d) DEP;
- (e) D of FS;
- (f) C for T;
- (g) CE/MN, DSD;
- (h) Head (Geotechnical Engineering Office) of Civil Engineering and Development Department (H(GEO), CEDD);
- (i) CTP/UD&L, PlanD; and
- (j) DO(TP), HAD.

9.3 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); and
- (b) Project Manager/North, CEDD (PM/N, CEDD).

10. Public Comment Received During Statutory Publication Period

On 27.10.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessment

11.1 The application is for a proposed Small House development at the Site zoned “AGR” on the OZP. The proposed use 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 agricultural point of view as the Site possesses potential for agricultural rehabilitation.

11.2 Regarding the Interim Criteria (**Appendix II**), the proposed Small House footprint falls entirely within the ‘VE’ of Shan Liu. According to DLO/TP, LandsD, the number of outstanding Small House applications for Shan Liu is 9 while the 10-year Small House demand forecast is 250. Based on the latest estimate by PlanD, about 0.9ha of land (or equivalent to about 36 Small House sites) is available within the “V” zone concerned (**Plan A-2b**). While land available within the “V” zone is insufficient to fully meet the future Small House

demand of 259 in Shan Liu, it is capable of meeting the 36 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. Among 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 situated in an area with a new cluster of Small Houses being formed through approved planning applications and Small House grant applications. The Site is bounded by approved Small House developments with works in progress in the north and west, and a number of approved Small House grants in the south (**Plan A-2a**). Bounded by the ‘VE’ limit to the east (**Plan A-2a**), the scope of extending the village cluster to further east within the same “AGR” zone is limited. Hence, the Site could be considered as an infill site among existing and approved Small House sites. Moreover, as compared to the last previous application (No. A/NE-TK/510), there is no change in the major development parameters and Small House footprint under current application except reduction in site area. In view of the above, sympathetic consideration might be given to the current application.

- 11.3 The Site is currently vacant and partly covered with vegetation, and is located in an area comprising mainly vacant land, village houses, vegetated areas and woodland. The proposed use is considered not incompatible with the surrounding landscape character (**Plan A-3**). CTP/UD&L, PlanD has no objection to the application from landscape planning perspective as significant adverse landscape impact on existing landscape resources arising from the proposed use is not anticipated.
- 11.4 The Site is located within the lower indirect WGGs and the applicant proposes to connect the proposed Small House to the existing sewerage system nearby (**Plan A-2a**). DEP and CE/C, WSD have no objection to the application from sewerage/water quality perspective provided that the applicant will connect the proposed Small House to the public sewer at his own costs. Other relevant government departments including C for T, CE/MN, DSD, CHE/NTE, HyD and D of FS have no objection to/no adverse comment on the application.
- 11.5 There are 43 similar applications in the vicinity of the Site which fall within/partly within the same “AGR” zone (**Plan A-2a**), among which 36 were considered between 2003 and early 2015. Since the formal adoption of the more cautious approach by the Board in August 2015, seven similar applications (No. A/NE-TK/561, 562, 657, 700, 701, 737 and 738) have been approved by the Committee mainly on sympathetic consideration of being located entirely/mostly within the ‘VE’ and an area with a new cluster of Small Houses being formed through approved planning applications and Small House grant applications; subject of previously approved application(s); and that the proposed development could be connected to the existing public sewerage system. The planning circumstances of the current application are largely similar to those seven approved applications.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 8.12.2027, 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 recommended advisory clauses are attached at **Appendix VI**.
- 12.3 Alternatively, should the Committee decided 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 submission for a departure from this 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 the "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 the permission.
- 13.2 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.
- 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 18.10.2023
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments

Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawings A-2 and A-3	Sewerage connection proposal submitted by the applicant
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
DECEMBER 2023**