

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

**APPLICATION NO. A/NE-TK/821**

**Applicant** : Mr. LEE Wai Shing

**Site** : Lot 243 S.A ss.1 in D.D.23, Ting Kok, Tai Po, New Territories

**Site Area** : About 153.6m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19

**Zoning** : “Agriculture” (“AGR”)

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

**1. The Proposal**

1.1 The applicant, who claims himself as an indigenous villager of San Tau Kok<sup>1</sup>, 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 OZP (**Plans A-1 and A-2a**). 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 within the “AGR” zone requiring planning permission from the Town Planning Board (the Board). The Site is densely vegetated and accessible via a local track leading to Tung Tsz Road (**Plans A-3 and A-4**).

1.2 Details of the proposed Small House are as follows:

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

1.3 The layout of the proposed Small House is shown in **Drawing A-1**. Also, the applicant proposes connecting the Small House development to an existing public sewer (**Plan A-2a**). No car parking space is proposed on site.

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<sup>1</sup> As advised by the District Lands Officer/Tai Po of Lands Department (DLO/TP, LandsD), the applicant’s eligibility of Small House grant has yet to be ascertained.

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

- (a) Application Form with attachments received on (Appendix I)  
16.9.2024
- (b) Further Information (FI) received on 14.10.2024\* (Appendix Ia)
- (c) FI received on 21.10.2024 and 22.10.2024\* (Appendix Ib)

*\*accepted and exempted from publication and recounting requirements*

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib** as summarised below.

- (a) the applicant is an indigenous villager of San Tau Kok who wishes to build a new Small House to relieve the overcrowding condition of his current dwelling which is shared with other family members;
- (b) the Site is the only land owned by his family, which is unable to acquire other land within the village;
- (c) there are existing trees within the Site. Those in good condition will be retained for landscaping purpose as far as possible, while those in poor condition will be removed; and
- (d) the applicant has identified three possible car parking spaces in the vicinity, if he owns a car in the future.

## 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. **Background**

The Site is currently not subject to any active planning enforcement action.

## 5. **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**.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Applications**

7.1 There are six similar applications (No. A/NE-TK/130, 134, 148, 149, 194 and 767) in the vicinity of the Site falling entirely within the same “AGR” zone or straddling the same “AGR” zone and the “Village Type Development” (“V”) zone of Wai Ha since the first promulgation of the Interim Criteria on 24.11.2000.

### *Approved Applications*

7.2 The first five applications (No. A/NE-TK/130, 134, 148, 149 and 194) were approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board between 2001 and 2005 before the Board’s formal adoption of a more cautious approach<sup>2</sup> in considering applications for Small House development in August 2015, mainly on considerations that there was insufficient land within the “V” zone to meet the demand for Small House at the time of consideration; and the proposed developments would unlikely cause significant adverse impacts on the surrounding areas. Except for application No. A/NE-TK/130, all other four applications were also approved on consideration that more than 50% of the proposed Small House footprint fell within the village ‘environs’ (‘VE’).

### *Rejected Application*

7.3 The last application (No. A/NE-TK/767) was rejected by the Committee in 2023 mainly on considerations that the proposed development is not in line with the planning intention of the “AGR” zone; it does not comply with the Interim Criteria in that more than 50% of the proposed Small House footprint falls outside the “V” zone and the VE of any recognised villages; and land is still available within the “V” zone of Wai Ha which is primarily intended for Small House development.

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

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

8.1 The Site is:

- (a) densely vegetated;
- (b) located entirely outside the ‘VEs’ of San Tau Kok, Po Sam Pai and Wai Ha; and

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<sup>2</sup> Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting should be put on the number of outstanding Small House applications provided by LandsD.

(c) accessible via a local track leading to Tung Tsz Road.

8.2 The surrounding areas are predominantly rural in character comprising active/fallow farmland, tree clusters/vegetated areas, open storage/workshop and village houses to the east and west in areas zoned “V”. Village clusters of San Tau Kok and Po Sam Pai are found at about 85m to the east of the Site, while village clusters of Wai Ha are found at about 40m to the west of the Site.

## 9. 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.

## 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:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone? - Footprint of the proposed Small House - The Site	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	- -	100% 100%	- The Site and the proposed Small House footprint fall entirely outside the ‘VE’ of San Tau Kok, Po Sam Pai and Wai Ha.
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> (a) Land required to meet Small House demand in San Tau Kok and Po Sam Pai: about 8.43ha (equivalent to 337 Small House sites). The outstanding Small House applications are 44 while the 10-year Small House demand forecast is 293.  (b) Land required to meet Small House demand in Wai Ha: about 2.65ha (equivalent to 106 Small House sites). The outstanding Small House applications are 6 while the 10-year Small House demand forecast is 100.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> (a) Land available to meet Small House demand within the “V” zone of San Tau Kok and Po Sam Pai: about 3.19ha (equivalent to about 127 Small House sites) ( <b>Plan A-2b</b> ).  (b) Land available to meet Small House demand within the “V” zone of Wai Ha: about 0.5ha (equivalent to about 20 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “AGR” zone?		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from agriculture perspective 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.
5.	Compatible with surrounding area/development?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) considers that the proposed Small House is not incompatible with the surrounding environment, which is situated in an area of rural coastal plains landscape character surrounded by clusters of trees, vegetated areas, vacant land and village houses to the east and west in areas zoned “V”.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Environmental and Sewerage impact?		✓	- Director of Environmental Protection (DEP) has no adverse comment on 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 work.
8.	Encroachment onto planned road networks and public works boundaries?		✓	

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
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 at this stage provided that the proposed house would not encroach on any existing EVA or planned EVA under application in accordance with LandsD's record.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) considers that such type of 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 involving development of one small house can be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no adverse comment on the application.
12.	Landscape impact?	Could not be reasonably ascertained		- CTP/UD&L, PlanD considers that the Site is covered by self-seeded vegetation. Existing tree groups of common species were observed within the accessible part of the Site. The applicant has not provided sufficient information in the landscape proposal indicating the existing tree information within the Site, proposed tree treatment and mitigation measures. The impact on existing landscape resources within the Site arising from the proposed use could not be reasonably ascertained.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comment on the application.
14.	Local objections received from DO?		✓	- District Officer/Tai Po, Home Affairs Department (DO/TP, HAD) has no adverse comment on the application.

10.2 Comments from the following government departments have been incorporated in paragraph 11.1 above. Other detailed comments, if any, are at **Appendix IV**.

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

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Chief Highway Engineer/New Territories East, Highways Department;  
and
- (c) Project Manager/North, CEDD.

## **11. Public Comment Received During Statutory Publication Period**

On 24.9.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix VI**) was received, raising objection to the application mainly for the reasons that there is no previous planning approval of the Site which is vegetated with trees; and further encroachment of other uses (including parking of vehicles) onto agricultural land should not be tolerated.

## **12. Planning Considerations and Assessment**

12.1 This application is for proposed Small House development at the Site zoned “AGR” on the OZP. The proposed development is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, as well as to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention.

12.2 According to the Interim Criteria (**Appendix II**), development of NTEH/Small House with more than 50% of the footprint outside both the ‘VE’ and the ‘V’ zone would normally not be approved unless under very exceptional circumstances. It should be noted that the proposed Small House footprint falls entirely outside the ‘VE’ and ‘V’ zone of San Tau Kok, Po Sam Pai and Wai Ha. According to DLO/TP, LandsD’s records, the number of outstanding Small House applications for San Tau Kok and Po Sam Pai is 44 and the 10-year Small House demand forecast for the same villages is 293, while the

number of outstanding Small House applications for Wai Ha is 6 and the 10-year Small House demand forecast for the same village is 100. Based on the latest estimate by PlanD, about 3.19ha of land (or equivalent to about 127 Small House sites) is available within the “V” zone at San Tau Kok and Po Sam Pai, while about 0.5ha of land (or equivalent to about 20 Small House sites) is available within the “V” zone at Wai Ha (**Plan A-2b**). While land available within the “V” zones is insufficient to fully meet the future Small House demand of 337 in San Tau Kok and Po Sam Pai and 106 in Wai Ha respectively, it is sufficient to accommodate the outstanding Small House applications of 44 in San Tau Kok and Po Sam Pai and 6 in Wai Ha respectively. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development in August 2015. Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weight has been put on the number of outstanding Small House applications provided by DLO/TP, LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 12.3 The Site, located to the east of Wai Ha and to the west of San Tau Kok and Po Sam Pai, is densely vegetated with trees. The proposed development is not incompatible with the surrounding areas which is comprising active/fallow farmland, tree clusters/vegetated areas, open storage/workshop and village houses to the east and west in areas zoned “V” (**Plans A-2a, A-3 and A-4**). CTP/UD&L, PlanD considers the impact on existing landscape resources within the Site arising from the proposed use could not be reasonably ascertained. C for T considers the application only involving development of one small house can be tolerated on traffic grounds. Other relevant government departments consulted including DEP, CE/MN, DSD, CE/C, WSD and D of FS have no objection to or no adverse comment on the application.
- 12.4 There are six similar applications (No. A/NE-TK/130, 134, 148, 149, 194 and 767) in the vicinity of the Site. The first five applications (No. A/NE-TK/130, 134, 148, 149 and 194) were approved before the Board’s formal adoption of a more cautious approach in considering applications for Small House development in August 2015. Given that the proposed Small House footprint under the current application falls entirely outside the ‘VE’ of San Tau Kok, Po Sam Pai and Wai Ha and land is still available in the “V” zone of the concerned villages for Small House development, the planning circumstances of approving these similar applications are not applicable to the current application. The planning circumstances of the current application are largely similar to the last similar application (No. A/NE-TK/767) which was rejected by the Committee in 2023 mainly on considerations as set out in paragraph 7.3 above.
- 12.5 Regarding the public comment objecting to the application as detailed in paragraph 11 above, government departments’ comments and the planning assessment above are relevant.



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

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, Planning Department does not support the application for the following reasons:

- (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 the planning intention;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that more than 50% of the proposed Small House footprint falls outside the “V” zone and the ‘VE’ of any recognised villages; and
- (c) land is still available within the “V” zones of San Tau Kok, Po Sam Pai and Wai Ha which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zones for more orderly development pattern, efficient use of land and provision of infrastructure and services.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 8.11.2028, 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 V**.

### 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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

### 15. **Attachments**

<b>Appendix I</b>	Application Form with attachments received on 16.9.2024
<b>Appendix Ia</b>	FI received on 14.10.2024
<b>Appendix Ib</b>	FI received on 21.10.2024 and 22.10.2024

<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Recommended Advisory Clauses
<b>Appendix Va</b>	Drainage Record Plan from the Drainage Services Department
<b>Appendix VI</b>	Public Comment
<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” Zones of San Tau Kok, Po Sam Pai and Wai Ha for Small House development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT**  
**NOVEMBER 2024**