

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

**APPLICATION NO. A/NE-LK/127**

- Applicant** : Mr. YEUNG Victor represented by Glister Engineering Consultants Company
- Site** : Lot 416 S.A in D.D. 75, Nam Chung Village, Sha Tau Kok, New Territories
- Site Area** : 263m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Luk Keng and Wo Hang Outline Zoning Plan (OZP) No. S/NE-LK/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claimed himself an indigenous villager of Nam Chung of Sha Tau Kok Heung<sup>1</sup>, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Sheung Wo Hang, Sha Tau Kok (**Plans A-1 and A-2a**). The Site falls within an area zoned “AGR” on the approved Luk Keng and Wo Hang OZP No. S/NE-LK/11. According to the Notes of the OZP, ‘House (NTEH only)’ is a Column 2 use in “AGR” zone 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 applicant indicates that the uncovered area of the Site would be used for garden area. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Nam Chung of Sha Tau Kok Heung. His eligibility for Small House concessionary grant has yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) on 14.1.2020.

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

The justifications put forth by the applicant in support of the application are detailed in part 9 of the Application Form in **Appendix I**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Nam Chung Village and is entitled for Small House Grants under the Small House policy; and the applicant is the registered owner of the Site;
- (b) the Site falls within the village ‘environs’ (‘VE’) of Nam Chung Lo Uk & Nam Chung Cheng Uk;
- (c) the proposed development is compatible with the surrounding environment and land use; and
- (d) there are some similar approved planning applications in the vicinity of the Site.

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

The applicant is the sole “current land owner” of the lot. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

## **5. Previous Application**

There is no previous application for the Site.

## **6. Similar Applications (Plans A-1 and A-2a)**

- 6.1 There are 5 similar applications for Small House development within/partly within the “AGR” zone in the vicinity of the Site in the Luk Keng and Wo Hang area since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Applications No. A/NE-LK/35 and No. A/NE-LK/44 were approved with conditions by the Committee in 2003 and 2005 respectively mainly on the considerations that the proposed development was in line with the Interim Criteria in that land available within

the “V” zones of Nam Chung village cluster<sup>2</sup> could not fully meet the future Small House demand at the time of consideration.

- 6.3 After the adoption of a cautious approach by the Board in August 2015, three applications (No. A/NE-LK/103, 104 and 105) were rejected by the Board on review and dismissed by the Town Planning Appeal Board (TPAB) in September 2016 and June 2018 respectively. Those applications were rejected mainly on the considerations that there was no general shortage of land in meeting the demand for Small House development in the “V” zones of Nam Chung village cluster at the time of consideration; and land was still available within the “V” zones of Nam Chung village cluster which was primarily intended for Small House development.
- 6.4 Details of these applications are summarised at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.

**7. The Site and Its Surrounding Area (Plans A-1, A-2a to A-2c, aerial photo on Plan A-3 and site photo on Plan A-4)**

7.1 The Site is:

- (a) vacant and covered by vegetation;
- (b) located in close proximity to the village cluster of Nam Chung Cheng Uk Village; and
- (c) accessible by local road.

7.2 The surrounding area has the following characteristics:

- (a) surrounded by fallow agricultural land;
- (b) to the west across the local road are village cluster of Nam Chung Cheng Uk within the “V” zone; and
- (c) its further east and south-east are ponds;

**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 in **Appendix II**. The assessment is summarised in the following table:

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<sup>2</sup> Nam Chung village cluster includes Nam Chung Cheng Uk, Nam Chung Lo Uk, Nam Chung Yeung Uk, Nam Chung Lei Uk and Nam Chung Cheung Uk.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> <li>- The Site</li> <li>- Footprint of the proposed Small House</li> </ul>	-	100%	- The Site and footprint of the proposed Small House fall within an area zoned “AGR”.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- The Site</li> <li>- Footprint of the proposed Small House</li> </ul>	100%	-	- DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Nam Chung Lo Uk & Nam Chung Cheng Uk.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p> <p>Sufficient land in “V” zone to meet outstanding Small House application?</p>	✓	✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Nam Chung village cluster: about 8 ha (equivalent to 319 Small House sites). The outstanding Small House applications for Nam Chung village cluster are 19<sup>3</sup> while the 10-year Small House demand forecast for Nam Chung village cluster is 300.</li> </ul> <p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet Small House demand within the “V” zones of Nam Chung village cluster: about 2.1ha (equivalent to 82 Small House sites) (<b>Plans A-2b and A-2c</b>).</li> </ul>
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		✓	- Director of Agriculture, Fisheries and Conservation (DAFC) states that the agricultural activities are active in the vicinity and agricultural infrastructure such as footpath and water source are available. The Site can be used for agricultural activities such as open field cultivation, greenhouses, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view.

<sup>3</sup> Among the 19 outstanding Small House applications, 11 of them fall within the “V” zone and 8 straddle or outside the “V” zone. For those 8 applications straddling or outside the “V” zone, none of them have 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 House is not entirely incompatible with the surrounding rural setting and environment dominated by fallow agricultural land, clusters of trees and some village houses.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	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. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) has reservation on the application and advises that Small House development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.  - Notwithstanding the above, the application only involves construction of one Small House. He considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservation on the application from the landscape planning point of view.  - The Site is located in an area of settled valleys landscape character comprises clusters of trees and farmlands, some village houses are found in the further west within an area zoned "V". Vegetation is observed within and around the Site. The proposed development, if approved, would set an undesirable precedent, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment.  - Should the application be approved, it is considered not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.
13.	Local objection conveyed by DO?	✓		District Officer (North) (DO(N)) advises that the Chairman of Sha Tau Kok District Rural Committee and Indigenous Inhabitant Representative of Nam Chung opposed to the proposal on the grounds that the proposed development would cause adverse drainage and traffic impact to the surrounding area. The incumbent North District Council member of subject constituency had no comment on the application.

9.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Detailed comments from Government departments are at **Appendix IV**.

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

9.3 The following Government departments have no comment on / no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department ; and
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department.

## **10. Public Comments Received During Statutory Publication Period**

On 21.1.2020, the application was published for public inspection. During the statutory public inspection period, 12 public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The Kadoorie Farm and Botanic Garden, WWF-HK, the Hong Kong Bird Watching Society, Designing Hong Kong Limited, five local villagers of Nam Chung Village and two individuals object to the applications mainly on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; there are no information provided to show that the applicants are indigenous villagers; the proposed development would cause adverse drainage and traffic impact to the surrounding area; the Site locates away from the village cluster; the setting of undesirable precedent to similar development in the area; there are similar rejected planning applications in the vicinity; proposed location of septic tank is close to the stream; and the proposed development might cause potential impact to ecological environment.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for a Small House development in an area zoned “AGR” on the OZP. The proposed Small House development is not in line with the planning intention of the “AGR” zone which is intended 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. DAFC does not support the application from the agriculture point of view as the Site possesses potential for agricultural rehabilitation. No strong justification has been given by the applicant in the submission to merit a departure from the planning intention of the “AGR” zone.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Nam Chung village cluster is 19 while the 10-year Small House demand forecast for the same village cluster is 300. According to the latest estimate by PlanD, a total of about 2.1 ha (equivalent to 82 Small House sites) of land are available within the “V” zones of concerned village cluster for Small House development (**Plans A-2b and A-2c**). DLO/N, LandsD advises that the footprint of

the proposed Small House falls entirely within the ‘VE’ of Nam Chung Lo Uk & Nam Chung Cheng Uk.

- 11.3 The Site is situated in an area of rural landscape character dominated by fallow agricultural land, tree clusters and some village houses (**Plans A-3 and A-4**). Whilst the proposed Small Houses are not entirely incompatible with the surrounding rural environment, CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective. The proposed development, if approved, would set an undesirable precedent, and would encourage more similar development within the area. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment. C for T considers that Small House development should be confined within the “V” zone as far as possible but the proposed construction of one Small House, the application could be tolerated. Other Government departments consulted, including DEP, CE/MN of DSD, HyD, WSD, FSD and CEDD, have no comment on or no objection to the application.
- 11.4 Regarding the Interim Criteria (**Appendix II**), the whole footprint of the proposed Small House falls within the ‘VE’ of Nam Chung Lo Uk & Nam Chung Cheng Uk (**Plan A-2a**). While land available within the “V” zones of Nam Chung village cluster is insufficient to fully meet the future Small House demand of 319 Small Houses, such available land (about 2.1 ha or equivalent to 82 Small House sites) is capable to meet the 19 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications 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. As such, 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.
- 11.5 There is no previous planning application at the Site. Since the adoption of a cautious approach by the Board in August 2015, three applications (No. A/NE-LK/103, 104 and 105) (**Plan A-2a**) were rejected and subsequently dismissed by the TPAB on 12.6.2018 mainly on the grounds that land was still available within the “V” zones of Nam Chung village cluster for Small House development. The planning circumstances of the current application is similar to those rejected applications.
- 11.6 Regarding the local objections and adverse public comments as detailed in paragraphs 9.1 and 10 above, the Government department’s comments and the planning assessment above are relevant.

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

- 12.1 Based on the assessments made in paragraph 12 and taking into account the local views and public comments mentioned in paragraphs 9.1 and 10, the 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 and to retain fallow arable land with good potential for rehabilitation for cultivation and



other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention; and

- (b) land is still available within the “V” zones of Nam Chung village cluster for Small House development. It is considered more appropriate to concentrate the proposed Small House within “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 6.3.2024, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

**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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 14.1.2020
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications within/partly within the “AGR” Zone in the vicinity of the Site on the Luk Keng and Wo Hang OZP
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<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 Nam Chung Lo Uk & Nam Chung Cheng Uk for Small House Development
<b>Plan A-2c</b>	Estimated Amount of Land Available within the “V” zones of Nam Chung Yeung Uk, Lei Uk and Cheung Uk for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**