

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LK/124

- Applicant** : Mr. LI Wan Choi
- Site** : Lot 901 S.A ss.1 in D.D. 81, Sheung Wo Hang, Sha Tau Kok, New Territories
- Site Area** : 113.5m² (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 Sheung Wo Hang of Sha Tau Kok Heung¹, 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)’ in “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	: 195.09 m ²
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m ²

1.3 The applicant indicates that the uncovered area of the Site would be used for circulation area. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.

¹ As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Sheung Wo Hang 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**) and supplementary information (**Appendix Ia**) which were received by the Board on 18.10.2019 and 23.10.2019 respectively.

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 and supplementary information in **Appendices I and Ia** respectively. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Sheung Wo Hang Village and is entitled for Small House Grants under the Small House policy;
- (b) the Site falls within the village ‘environs’ (‘VE’) of Sheung Wo Hang Village;
- (c) the Site is the only land parcel owned by the applicant for construction of his own Small House for retirement;
- (d) there is insufficient land available in the “Village Type Development” (“V”) zone of Sheung Wo Hang Village and most of the available land are under the process of Small House applications;
- (e) the Site has been abandoned for years and there were no agricultural activities;
- (f) the Site locates 30m away from the village cluster and the proposed development is compatible with the surrounding environment and land use; and
- (g) no tree felling and land filling are proposed at the Site.

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

The applicant is the sole “current land owner” of the 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 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. 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

- 6.1 There are 3 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 (**Plan A-2a**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 Two applications (No. A/NE-LK/39 and 40) were rejected by the Board on review in December 2003 (**Plan A-2a**) mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; the proposed Small House development did not comply with the Interim Criteria for assessing planning application for NTEH/Small House development as the land available within the “V” zone of Sheung Wo Hang Village could meet future Small House demand; and the approval of the application would set an undesirable precedent for other similar applications.
- 6.3 One application (No. A/NE-LK/74) was rejected by the Board on review in January 2013 (**Plan A-2a**) mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Sheung Wo Hang Village where land was primarily intended for Small House development; and the approval of the application would set an undesirable precedent for other similar applications.
- 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 and A-2b, aerial photo on Plan A-3 and site photo on Plan A-4)

- 7.1 The Site is:
 - (a) vacant and covered by weeds (**Plan A-4**);
 - (b) located in close proximity to the village cluster of Sheung Wo Hang Village (**Plan A-2a**); and
 - (c) inaccessible by local road.
- 7.2 The surrounding area has the following characteristics:
 - (a) to the immediate west are village cluster of Sheung Wo Hang within the “V” zone (**Plans A-2a and A-2b**);
 - (b) there is a natural stream to the further north of the Site (**Plan A-2a**);
 - (c) its further northwest are densely vegetated woodland within “Green Belt” (“GB”) zone; and
 - (d) surrounded by fallow agricultural land.

8. Planning Intention

The planning intention of the “AGR” zone in the Luk Keng and Wo Hang area 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 - Footprint of the proposed Small House	- -	100% 100%	- The Site and footprint of the proposed Small House fall within an area zoned “AGR”.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	100% 100%	- -	- DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Sheung Wo Hang.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Sheung Wo Hang: about 26.9 ha (equivalent to 1077 Small House sites). The outstanding Small House applications for Sheung Wo Hang are 77 ² while the 10-year Small House demand forecast for the same village is 1000.
	Sufficient land in “V” zone to meet outstanding Small House application?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the village concerned: about 2.26ha (equivalent to 90 Small House sites) (Plan A-2b).

² Among the 77 outstanding Small House applications, 56 of them fall within the “V” zone and 21 straddle or outside the “V” zone. For those 21 applications straddling or being 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>
4.	Compatible with the planning intention of “AGR” zone?		✓	- 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.
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 and 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

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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.
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 largely undisturbed rural landscape character surrounded by village houses within “V” zone to its southwest, and densely vegetated woodland within “GB” zone to its northwest. Despite no significant sensitive landscape resource is observed within 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, alter the landscape character and cause irreversible impact on existing landscape resources of the “AGR” zone. - 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objection conveyed by DO?	✓		- District Officer (North) (DO(N)) advises that the Indigenous Inhabitant Representative (IIR) of Wo Hang supports the proposal on the grounds that the local villager should have the right to build house at its own village. The Chairman of Sha Tau Kok District Rural Committee, the North District Council (NDC) member of subject constituency, the Resident Representative (RR) and another IIR of Wo Hang have 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 25.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, eight public comments were received (**Appendix V**). The Chairman of Sheung Shui District Rural Committee supports the application while a NDC member indicates no comment on the application. The Kadoorie Farm and Botanic Garden, WWF-HK, the Hong Kong Bird Watching Society, Designing Hong Kong Limited 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 Site locates away from the village cluster; the setting of undesirable precedent to similar development in the area; 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 Site falls entirely within an area zoned “AGR”. 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 intentions of the “AGR” zone.
- 11.2 Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Sheung Wo Hang is 77 while the 10-year Small House demand forecast for the same village cluster is 1000. According to the latest estimate by PlanD, a total of about 2.26 ha (equivalent to 90 Small House sites) of land are available within the “V” zone of concerned village cluster for Small House development (**Plan A-2b**). DLO/N, LandsD advises that the footprint of the proposed Small House falls entirely within the ‘VE’ of Sheung Wo Hang Village.
- 11.3 The Site is situated in an area of rural landscape character dominated by fallow agricultural land and village houses (**Plans A-3 and A-4**). Whilst the proposed Small Houses are not incompatible with the surrounding rural environment, CTP/UD&L, PlanD has some reservations on the application from the landscape planning perspective. Despite no significant sensitive landscape resource is observed within 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, alter the landscape character and cause irreversible impact on existing landscape resources of the “AGR” zone. 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 Sheung Wo Hang Village (**Plan A-2a**). While land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 1077 Small Houses, such available land (about 2.26 ha or equivalent to 90 Small House sites) is capable to meet the 77 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. There are three similar applications for Small House development within the “AGR” in the vicinity of the Site (**Plan A-2a**). Two applications (No. A/NE-LK/39 and 40) were rejected by the

Board on review in December 2003 (**Plan A-2a**) mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; the proposed Small House development did not comply with the Interim Criteria for assessing planning application for NTEH/Small House development as the land available within the “V” zone of Sheung Wo Hang Village could meet future Small House demand; and the approval of the application would set an undesirable precedent for other similar applications. One application (No. A/NE-LK/74) was rejected by the Board on review in January 2013 (**Plan A-2a**) mainly on the considerations that the application was not in line with the planning intention of the “AGR” zone; land was still available within the “V” zone of Sheung Wo Hang Village where land was primarily intended for Small House development; and the approval of the application would set an undesirable precedent for other similar applications. The circumstances of the current application are similar to the rejected application No. A/NE-LK/74.

11.6 Regarding the adverse public comments as detailed in paragraph 11, 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 having taken into account the local views and public comments mentioned in paragraphs 10.1 and 11, 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 in the Luk Keng and Wo Hang area 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;
- (b) land is still available within the “V” zone of Sheung Wo Hang village 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; and
- (c) the approval of the application would set an undesirable precedent for other similar applications in the area. The cumulative impact of which would lead to further loss of agricultural land and adverse landscape impact on the surrounding area.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 13.12.2023, 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 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

Appendix I	Application Form with Attachments received on 18.10.2019
Appendix Ia	Supplementary Information received on 23.10.2019
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications within/partly within the “AGR” Zone in the vicinity of the Site on the Luk Keng and Wo Hang OZP
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Sheung Wo Hang Village for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2019**