

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/619

<u>Applicant</u>	Mr. WONG Chi Wing represented by Cheer Excel Engineering Limited
<u>Site</u>	Lot 261 S.F in D.D. 8 and adjoining Government land, Tai Yeung Che Village, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 125.9m ² (Including Government land of 32.5m ²)
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zonings</u>	“Village Type Development” (“V”) (about 71%) and “Agriculture” (“AGR”) (about 29%) and
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claimed to be as an indigenous villager (IV) of Kam Chuk Pai¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). 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)’ in the “AGR” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed Small House development are as follows:
- | | | |
|------------------|---|----------------------|
| Total floor area | : | 195.09m ² |
| No. of storeys | : | 3 |
| Building height | : | 8.23m |
| Roofed over area | : | 65.03m ² |
- 1.3 Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**.

¹ According to Lands Department’s record, the applicant claimed himself as an IV of Kam Chuk Pai. However, his eligibility of Small house grant has not yet been ascertained.

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachments received on **(Appendix I)** 8.9.2017;
 - (b) further information providing a Geotechnical Planning Review Report (GPRR) received on 12.10.2017 *(accepted but not exempted from publication and recounting requirement)*; **(Appendix Ia)**
 - (c) further information providing a revised sewerage connection proposal (involved Government land only) received on 4.11.2017 *(accepted and exempted from publication and recounting requirement)*; **(Appendix Ib)**
 - (d) further information providing technical clarification on the submitted GPRR received on 8.12.2017 *(accepted and exempted from publication and recounting requirement)*; **(Appendix Ic)**
- 1.5 According to the submitted GPRR **(Appendix Ic)**, the proposed site formation works involve construction of retaining walls, soil backfilling works to the proposed site formation level and stormwater drainage works **(Drawings A-2 and A-3)²**.
- 1.6 On 8.12.2017, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's requests to defer making a decision on the application for two months to allow time to address departmental comments on technical issues. The latest further information was submitted on 8.12.2017 and the application is re-scheduled for consideration by the Committee on 26.1.2018.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application stated in Part 9 of the application form at **Appendix I** are summarized as follows:

- (a) there is a shortage of Government land for village house due to the rising demand;
- (b) the proposed development is compatible with the surrounding areas which are mainly occupied by village houses. In fact, the application is for an extension of the "V" zone to the boundary of the Site;
- (c) the proposed development will convert the derelict land into a more practical and economical residential use without affecting the rural character of the area which is beneficial to the community; and

² According to the proposed site formation plan, part of the site formation works fall outside the application site.

(d) the proposed development will not cause adverse environmental impact.

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. As for the Government land, the “owner’s consent/notification” requirements are not applicable to the application.

4. Background

The Site is not involved in any active planning enforcement case.

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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. 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 with criterion (i) remained unchanged was promulgated on 7.9.2007 and is at **Appendix II**.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

7.1 There are 21 similar applications for Small House development in the vicinity of the Site and within the same “AGR” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plans A-1 and A-2a**).

7.2 Nineteen applications (No. A/NE-LT/356, 357, 358, 383, 398, 410, 438, 442, 443, 444, 453, 472, 486, 506, 596, 600, 601, 603 and 607) on 13 sites were approved by the Committee/the Board on review with conditions between 2006 and 2017 mainly on the grounds that the proposed developments were generally in line with the Interim Criteria in that more than 50% of the Small House footprints was located within the village ‘environs’ (‘VE’) of the concerned villages; there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration; the proposed Small House were able to be connected to the planned sewerage system; and the proposed developments were not incompatible with the surrounding areas and would unlikely cause any adverse impacts on the surrounding areas. Applications No. A/NE-LT/398, 486, 506, 596, 603 and 607 were also approved on special consideration that the sites were the subject of previously approved applications (No. A/NE-LT/356, 357,

358, 383, 442, 443, 444 and 453) and no significant change in planning circumstances since the previous applications had been approved. Besides, applications No. A/NE-LT/600 and 601 were approved on review. After taking into account a basket of considerations, including that those application sites were infill sites within the existing village settlement and approving those applications would unlikely set an undesirable precedent for similar applications where existing vegetation and trees would be affected.

7.3 Two applications (No. A/NE-LT/423 and 446) were rejected by the Committee in 2011 and 2012 respectively on the grounds that the proposed Small House was not in line with the Interim Criteria in that the proposed development within WGG was not able to be connected to existing or planned sewerage system in the area; and the applicant failed to demonstrate the proposed Small House would not cause adverse water quality and landscape or geotechnical impacts. Application No. A/NE-LT/446 was also rejected on the grounds of being not in line with the planning intention of the “AGR” zone and not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint was located outside the ‘VE’/’V” zone of the concerned villages.

7.4 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

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

8.1 The Site is:

- (a) located at the bottom of the hill slope, currently vacant and partly covered by groundcovers; and
- (b) located at the western fringe of Tai Yeung Che and to the immediate northwest of the existing village houses.

8.2 The surrounding areas are predominantly rural in character with a mix of village houses, active and fallow agricultural land and woodland. Dense woodland is found on the hillside to the immediate northwest. Village cluster of Tai Yeung Che is found to the immediate east of the Site.

9. Planning Intentions

9.1 The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9.2 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 Small House - Application site	67.1% 71%	32.9% 29%	- The remaining portions of the Site and the footprint of the proposed Small House fall within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - Application site	100% 100%	- -	- The Site and the footprint of the proposed Small House fall entirely within ‘VE’. District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand in Tai Mong Che and Ma Po Mei: about 7.85 ha (or equivalent to 314 Small House sites). The outstanding Small House applications are 44 ³ while the 10-year Small House demand forecast for the same villages is 270. - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.7 ha (or equivalent to 108 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the

³ Among the 44 outstanding Small House applications, there are 12 Small House applications straddling or outside the “V” zone that have already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				application as the Site has low potential for agricultural rehabilitation.
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding area which is rural in character occupied by active and fallow agricultural land, woodland and village houses. Village cluster is formed in close proximity of the Site.
6.	Within Water Gathering Ground (WGG)?	✓		- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House is able to be connected to the existing public sewerage system in the area. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no in-principle objection to the application.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage point of view.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- Approval condition on submission and implementation of drainage proposal is recommended to ensure that it will not cause adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the application as the applicant proposed to connect the subject Small House to the existing public sewerage at Tai Yeung Che (Plan A-2a) and sewer connection is feasible and capacity is available for the proposed Small House development. - DLO/TP, LandsD advises that the terminal manhole proposed to be connected to is located far away from the proposed Small House (Plan A-2a) whereas a long strip of Government land will be affected by the proposal which is undesirable from land administrative point of view.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from the landscape planning point of view as construction of the proposed Small House involves slope cutting/filling which affects the root system of the existing trees adjoining the Site. Yet, information regarding tree treatment and compensation are missing in the application.
13.	Geotechnical impact		✓	- The Head of Geotechnical Engineering Office, Civil Engineering and Development

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>Department (H(GEO), CEDD) advises that the Site is overlooked by steep natural hillside and meets the Alert Criteria requiring a Natural Terrain Hazard Study (NTHS). He has no comment on the application as the applicant has committed to undertake an NTHS and to provide suitable mitigation measures, if found necessary, as part of the proposed development in the revised GPRR.</p> <p>- Should the application be approved, an approval condition on the submission of an NTHS and implementation of the mitigation measures recommended therein is required.</p>
14.	Local objections conveyed by 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) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Environmental Protection;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Chief Engineer/Mainland North, Drainage Services Department;
- (e) Chief Engineer/Project Management, Drainage Services Department;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Director of Fire Services;
- (h) Chief Engineer/Construction, Water Supplies Department;
- (i) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (j) Director of Electrical and Mechanical Services; and

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

- (a) Commissioner for Transport;
- (b) Chief Highway Engineer/New Territories East, Highways Department;

- (c) District Officer/Tai Po, Home Affairs Department; and
- (d) Project Manager/New Territories East, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period (Appendix V)

On 15.9.2017 and 27.10.2017, the application was published for public inspection. During the statutory public inspection periods ended on 6.10.2017 and 17.11.2017 respectively, six public comments were received from individuals objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; having adverse impacts on the traditional rights and interests of indigenous villagers related to the permitted burial ground; land being still available within the “V” zone for Small House development; loss of agricultural land; having adverse impacts on landscape, drainage, environment, slope stability and fire safety; and setting of undesirable precedent.

12. Planning Considerations and Assessments

- 12.1 The Site falls within an area mainly zoned “V” (about 71%) and partly zoned “AGR” (about 29%) (**Plan A-2a**). 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 it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC has no strong view on the application from the agricultural development point of view as the Site has low potential for agricultural rehabilitation.
- 12.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 44 while the 10-year Small House demand forecast is 270. Based on the latest estimate by the Planning Department, about 2.7 ha (or equivalent to about 108 Small House sites) of land are available within the “V” zone of the concerned villages. As the footprint of the Small House falls entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site located on the western fringe of Tai Mong Che (**Plan A-2a**) is situated at the bottom of the vegetated slope, currently vacant and partly covered by groundcovers. The village cluster of Tai Mong Che is located to the immediate east and existing village houses are found to the immediate southeast of the Site. The proposed development is not incompatible with the surrounding environment which is rural in character comprising of active and fallow agricultural land, woodland and village houses. CTP/UD&L of PlanD has some reservations on the application from the landscape planning point of view as construction of the proposed Small House will involve slope cutting/filling which will affect the root system of the existing trees adjoining the Site. However, the applicant has not provided any information regarding tree treatment and compensation. Based on the submitted GPRR (**Drawings A-2** and **A-3**), it is also noted that the associated site formation work would

encroach onto the adjacent slope covered by mature native woodland.

- 12.4 The Site falls within the upper indirect WGG. CE/MN, DSD advises that the Site is within an area where connections to existing sewerage networks are available in the vicinity (**Plan A-2a**) and the applicant has proposed to connect the proposed Small House to the public sewerage system (**Drawing A-1** and **Appendix Ib**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed Small House to the public sewer at his own cost. DLO/TP, LandsD advises that the terminal manhole proposed to be connected to is located far away from the proposed Small House whereas a long strip of Government land will be affected by the proposal which is undesirable from land administrative point of view. Besides, H(GEO) of CEDD advises that the proposed Small House is overlooked by steep natural hillside and meets the Alert Criteria requiring an Natural Terrain Hazard Study (NTHS) and he has no in-principle objection to the application as the applicant has committed to undertake an NTHS and to provide suitable mitigation measures, if found necessary, as part of the proposed development in the submitted GPRR (**Appendices Ia** and **Ic**). Other relevant Government departments including C for T, CE/PM of DSD, CHE/NTE of HyD and D of FS have no objection to or adverse comment on the application.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the 'VE' of Tai Mong Che and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the "V" zone (about 2.7 ha or equivalent to about 108 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 44 outstanding Small House applications (**Plan A-2b**). It is considered more appropriate to concentrate the proposed Small House developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. 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 and special consideration would be given to sites with previous approvals. There is no previous approval for the Site. Furthermore, the proposed development does not comply with the Interim Criteria as it would cause adverse landscape impact on the surrounding areas.
- 12.6 Out of the 21 similar applications within the same "AGR" zone in the vicinity of the Site (**Plan A-2a**), nineteen applications (No. A/NE-LT/356, 357, 358, 383, 398, 410, 438, 442, 443, 444, 453, 472, 486, 506, 596, 600, 601, 603 and 607) were approved by the Committee/the Board on review between 2006 and 2017 mainly on the considerations of being generally in compliance with the Interim Criteria in that more than 50% of the Small House footprints was located within the 'VE'/'V" zone of the concerned villages; there was a general shortage of land in meeting the demand for Small House development in the "V" zone of the concerned villages at the time of consideration; being able to be connected to the planned sewerage system in the area; and having no

adverse environmental, traffic and drainage impacts on the surrounding areas. Amongst others, applications No. A/NE-LT/398, 486, 506, 596, 603 and 607 were also approved under special circumstances of being the subject of previously approved applications or surrounded by existing village houses. As for applications No. A/NE-LT/600 and 601, they were approved on review for the reasons of being the subject of infill sites within the existing village settlement and approving those applications would unlikely set an undesirable precedent for similar applications where existing vegetation and trees would be affected. The planning circumstances of the current application are different from those approved cases as the proposed Small House development as its associated site formation work would cause adverse landscape impact on the surrounding areas. The remaining two applications (No. A/NE-LT/423 and 446) were rejected in 2011 and 2012 mainly on the grounds of being not in line with the planning intention of the “AGR” zone; and/or being not in compliance with the Interim Criteria including not being able to be connected with planned sewerage system in the area; or more than 50% of the proposed Small House footprints being located outside the ‘VE’/‘V’ zone of the concerned villages; or being not able to demonstrate that the proposed development would not cause adverse sewerage, and landscaping or geotechnical impacts on the surrounding areas.

- 12.7 Regarding the public comments objecting to the application for the reasons of being not in line with the planning intention of “AGR” zones; setting of undesirable precedent; and land being still available within the “V” zone for Small House development; loss of agricultural land; and having adverse impacts on landscape, drainage, environment, slope stability and fire safety as well as the traditional right of indigenous villagers, Government departments’ comments and the planning assessments and considerations above are relevant. Besides, DLO/TP, LandsD advises that the Site falls outside the nearest permitted burial ground.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 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 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 current submission for a departure from the planning intention;
 - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that it would cause adverse landscape impact on the surrounding areas; and

- (c) land is still available within the “V” zone of Tai Mong Che 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.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 26.1.2022, 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 landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) 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;
- (d) 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; and
- (e) the submission of a Natural Terrain Hazard Study and implementation of the mitigation measures recommended therein to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board.

Advisory Clauses

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

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses 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

Appendix I	Application form and attachment received on 8.9.2017
Appendix Ia	Further information received on 12.10.2017
Appendix Ib	Further information received on 4.11.2017
Appendix Ic	Further information received on 8.12.2017
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant Government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawings A-2 and A-3	Proposed site formation and section plans submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
JANUARY 2018**