

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/626

<u>Applicant</u>	Mr. CHUNG Yuk Hang
<u>Site</u>	Government land in D.D. 19, Chuen Shui Tseng Village, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 65.03m ²
<u>Land Status</u>	Government land
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims to be an indigenous villager (IV) of Chuen Shui Tseng¹, 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)’ use within 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
Number 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 claims himself as an IV of Chuen Shui Tseng. 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 10.11.2017 **(Appendix I)**

(b) Further Information (FI) received on 31.1.2018 **(Appendix Ia)** providing a sewerage connection proposal in response to departmental comments

1.5 On 22.12.2017, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months to allow time for preparation of sewerage connection proposal. On 31.1.2018, the applicant submitted FI and the application is re-scheduled for consideration by the Committee on 16.3.2018.

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 at **Appendix I**. The applicant states that he is the IV of Chuen Shui Tseng Village and he would like to build a Small House in this village to meet his housing need.

3. Compliance with the "Owner's Consent/Notification" Requirements

As the Site involves Government land only, the "owner's consent/ notification" requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable to the application.

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 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**.

5. Previous Application

5.1 Part of the Site is the subject of a previous application (No. A/NE-LT/309) for a proposed NETH/Small House development submitted by a different applicant. The application was rejected by the Committee on 19.12.2003 on the grounds that the application was not in line with the planning intention of the "AGR" zone and the proposed development did not comply with the

Interim Criteria in that the application site was not able to be connected to existing or planned sewerage system in the area.

- 5.2 Details of the above previous application are summarized at **Appendix III** and the location is shown on **Plans A-1 and A-2a**.

6. Similar Applications

- 6.1 There are 10 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**).
- 6.2 Five applications (No. A/NE-LT/253, 254, 264, 430 and 622) were approved with conditions by the Committee between 2001 and 2017. Applications No. A/NE-LT/253, 254, 264 and 430 were approved mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was within village ‘environs’ (‘VE’)/“V” zone; and there was a general shortage of land within the concerned “V” zone to meet the future Small House demand at the time of consideration. Application No. A/NE-LT/430 was also approved on consideration of being able to be connected to the public sewerage system after incorporation of criterion (i) of the Interim Criteria requiring proposed Small House within WGG to be connected to the existing or planned sewerage system. Although application No. A/NE-LT/622 does not fully comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone, sympathetic consideration was given to the application as about 84% of the proposed Small House footprint falls within the “V” zone and the application site is situated to the immediate northwest of the village cluster of Chuen Shui Tseng.
- 6.3 Regarding the five rejected cases (No. A/NE-LT/315, 512, 546, 572 and 573), they were rejected by the Committee/the Board on review between 2004 and 2016 mainly on the grounds of being not in line with the planning intention of “AGR” zone; and/or not able to be connected to the existing or planned sewerage system. Applications No. A/NE-LT/315, 512 and 546 were also rejected on the grounds that more than 50% of the footprint of the proposed Small House fell outside the ‘VE’/“V” zone. Moreover, Applications No. A/NE-LT/546, 572 and 573 did not comply with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in “V” zone of the concerned village(s) and land was still available within the “V” zone for Small House development.
- 6.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.
- 6.5 Another similar application No. A/NE-LT/625 for proposed Small House development, which is located to the immediate north of the Site, will be considered at this meeting.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a and Photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) generally flat, partly covered with grasses and partly covered with active farmland; and
- (b) located within upper indirect WGG.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, agricultural land and scattered tree groups. A village house is found to the immediate east of the Site. The village cluster of Chuen Shui Tseng is situated about 60m to the north of the Site.

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 have 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 - Application site		100% 100%	- The Site and the footprint of the proposed Small House fall entirely 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 the ‘VE’ of Chuen Shui Tseng (Plan A-2a). 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	✓		- Land required to meet Small House demand in Chuen Shui Tseng: about 0.33 ha (or equivalent to 13 Small House sites). The

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	and 10-year Small House demand?			<p>outstanding Small House applications are 13¹ while there is no information on the 10-year Small House demand forecast from the IIR of the same village.²</p> <p>- Land available to meet Small House demand within the “V” zone of the village concerned: about 0.87 ha (or equivalent to 34 Small House sites) (Plan A-2b).</p>
4.	Compatible with the planning intention of “AGR” zone?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the application from the agricultural development point of view as there are active agricultural activities in the vicinity and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character mainly occupied with village houses, agricultural land and tree groups.
6.	Within WGG?	✓		<p>- 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.</p> <p>- Approval conditions on connection to public sewers and provision of protective measures to WGG are required.</p>
7.	Encroachment onto		✓	

¹ Among the 13 outstanding Small House applications, there is one Small House application straddling the “V” zone that has already obtained valid planning approval from the Board.

² The figure of 10-year Small House demand has not been provided by the IIR of Chuen Shui Tseng.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	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), in general, has reservation on the application and advises that such type of development should be confined within the “V” zone. However, the application only involving development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?	✓		- The Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the Small House to the existing public sewerage at Chuen Shui Tseng Village (Plan A-2a) and sewer connection is feasible and capacity is available for the proposed Small House development. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view as adverse impact on landscape resources is not anticipated.
13.	Geotechnical impact?		✓	
14.	Local objection received from DO?		✓	

9.2 Comments from the following Government departments have been incorporated in the above paragraph. Other detailed comments from Government departments are at **Appendix V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) District Officer/Tai Po, Home Affairs Department;
- (c) Project Manager/New Territories East, Civil Engineering and Development Department; and
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

10. Public Comment Received During Statutory Publication Period

On 17.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from Designing Hong Kong (**Appendix VI**) objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone; having adverse environmental impacts; and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within the “AGR” zone (**Plan A-2a**). The proposed Small House 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 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 agricultural development point of view as there are active agricultural activities in the vicinity and the Site possesses potential for agricultural rehabilitation.
- 11.2 According to DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Chuen Shui Tseng is 13 while no information on 10-year Small House demand forecast has been provided by the IIR. Based on the latest estimate by the Planning Department, about 0.87 ha (or equivalent to about 34 Small House sites) of land is available within the “V” zone (**Plan A-2b**). As the footprint of the proposed Small House falls entirely within the ‘VE’ of Chuen Shui Tseng, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site is partly covered with grasses and partly covered with active farmland (**Plan A-2a**). The village cluster of Chuen Shui Tseng is situated about 60m to the north of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of village houses, agricultural land and tree groups. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as adverse impact on landscape resources from the proposed development is not anticipated.
- 11.4 The Site falls within the upper indirect WGG. The applicant has proposed to connect the proposed Small House to the existing public sewerage system at Chuen Shui Tseng, which is about 40m away. 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. While C for T has reservation on the application as such development should be confined within “V” zone as far as possible, it can be tolerated as the application only involves development of a Small House. Other relevant Government departments including CE/PM of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), while more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Chuen Shui Tseng and the proposed development within WGG would be able to be connected to the public sewerage system (**Plan A-2a**), there is sufficient land within the “V” zone (about 0.87 ha or equivalent to about 34 Small House sites) (**Plan A-2b**) to fully meet the future Small House demand (about 0.33 ha or equivalent to about 13 Small Houses). As such, the proposed development does not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the concerned “V” zone. It is therefore considered more appropriate to concentrate the

proposed Small House development within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.

- 11.6 There are 10 similar applications in the vicinity of the Site (**Plans A-1 and A-2a**). Five of them (Applications No. A/NE-LT/253, 254, 264, 430 and 622) were approved with conditions by the Committee mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was within ‘VE’/“V” zone; there was a general shortage of land within the concerned “V” zone to meet the future Small House demand at the time of consideration; and being able to be connected to the public sewerage system². The other five applications (Nos. A/NE-LT/315, 512, 546, 572 and 573) were rejected by the Committee/the Board on review between 2004 and 2016 mainly on the grounds of not being in line with the planning intention of “AGR” zone; not being able to be connected to the existing or planned sewerage system; and/or more than 50% of the footprint of the proposed Small House fell outside the ‘VE’/“V” zone. Applications No. A/NE-LT/546, 572 and 573 were also rejected on the grounds of not complying with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in “V” zone and land was still available within the “V” zone for Small House development. The planning circumstances of the current application are similar to Applications No. A/NE-LT/572 and 573.
- 11.7 Regarding the public comment objecting to the application mainly on the grounds of being not in line with the planning intention of “AGR” zone, having adverse environmental impacts and setting of undesirable precedent, Government departments’ comments and the planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 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. 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;

² Except Applications No. A/NE-LT/253, 254 and 264 which were approved before the introduction of criterion (i) of the Interim Criteria requiring connection to the existing or planned sewerage system; and sympathetic consideration was given to Application No. A/NE-LT/622 as the application site is situated to the immediate northwest of the village cluster of Chuen Shui Tseng and about 84% of the footprint of the proposed Small House falls within the “V” zone.

- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Chuen Shui Tseng; and
- (c) land is still available within the “V” zone of Chuen Shui Tseng 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.

12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **16.3.2022**, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) 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; and
- (c) 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 the Town Planning Board.

Advisory Clauses

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

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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.
- 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 and attachments received on 10.11.2017
Appendix Ia	Further information received on 31.1.2018
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	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Site plan and 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 for Small House Development within "V" zone
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
MARCH 2018**