

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/654

- Applicant** : Mr. William WONG represented by Mr. WONG Chee Keung
- Site** : Lot 257 S.B in D.D. 8, Tai Mong Che, Lam Tsuen, Tai Po, N.T.
- Site Area** : About 130.4 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claims himself an indigenous villager of Tai Mong Che¹, 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 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 According to the applicant, the uncovered area will be used for garden purpose. Layout of the proposed Small House and the sewerage connection proposal are shown on **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents :

¹ As advised by DLO/TP of LandsD, the applicant’s eligibility of Small house grant has yet to be ascertained.

- (a) application form and attachments received on 11.9.2018 (Appendix I)
- (b) supplementary information providing a sewerage connection proposal received on 12.9.2018 (Appendix Ia)
- (c) supplementary information providing a revised site plan received on 14.9.2018 (Appendix Ib)

2. **Justification from the Applicant**

According to Part 9 of the application form at **Appendix I**, the proposed Small House development is for self-occupation.

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

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

4. **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**

There is no previous planning application at the Site.

6. **Similar Applications**

- 6.1 There are 23 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**). Out of them, 20 applications were approved and 3 were rejected.
- 6.2 Regarding the 20 approved applications, 14 of them (Applications No. A/NE-LT/356, 357, 358, 383, 398, 410, 438, 442, 443, 444, 453, 472, 486 and 506) were approved between 2006 and 2014 before the Board adopted a more cautious approach in approving applications for Small House development in recent years. They were approved mainly for reasons that the application was in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the ‘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 was able to be connected to the planned sewerage system; and the proposed development was not incompatible with the surrounding uses and would unlikely cause any adverse impacts on the surrounding areas.

- 6.3 After that, four applications (No. A/NE-LT/596, 603, 607 and 627) were approved in 2017 and 2018 on special consideration that the sites were the subject of previously approved applications (No. A/NE-LT/442, 443, 438 and 453) and there was no significant change in planning circumstances since the previous approvals were given.
 - 6.4 Two more applications (No. A/NE-LT/600 and 601) were approved by the Board on review in 2017 mainly for reasons that the application sites were infill sites within the existing village settlement and approving the applications would unlikely set an undesirable precedent for similar applications to the east of the sites where existing vegetation and trees would be affected.
 - 6.5 For the three rejected cases (Applications No. A/NE-LT/423, 446 and 619), applications No. A/NE-LT/423 and 446 were rejected mainly for the reason of not complying with Interim Criteria in that the proposed development within WGG was not able to be connected to planned sewerage system in the area. Applications No. A/NE-LT/423 and 619 were also rejected on the ground of causing adverse landscape impact to the surrounding area. Besides, application No. A/NE-LT/446 was rejected for the reason of 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 and it would cause adverse geotechnical impact on the surrounding area. Application No. A/NE-LT/619 was also rejected on the ground of land being still available within the “V” zone of concerned villages for Small House development.
 - 6.6 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.
7. **The Site and Its Surrounding Areas** (Plans A-1, A-2a, and photos on Plan A-3 and A-4)
- 7.1 The site is:
 - (a) located near a natural slope on the west and at the western fringe of Tai Mong Che Village;
 - (b) vacant and overgrown with grasses; and
 - (c) not connected to any proper vehicular and pedestrian access.
 - 7.2 The surrounding areas are predominantly rural in character with village houses, agricultural fields and dense woodland. Village houses are mainly located within the “V” zone on the east of the Site. Dense woodland is found on the west 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 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.	<p>Within “V” zone ?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - Application site 	-	100%	- Both the Site and the footprint of the proposed Small House fall entirely within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - Application site 	73%	27%	- More than 50% of the Site and footprint of the proposed Small House fall within the ‘VE’ of Tai Mong Che and Ma Po Mei.
		63.5%	36.5%	- The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	<ul style="list-style-type: none"> - Sufficient land in “V” zone to meet Small House demand? 		✓	- Land required to meet Small House demand in Tai Mong Che and Ma Po Mei: about 7.83 ha (or equivalent to 313 Small House sites). The outstanding Small House applications are 43 ² while the 10-year Small House demand forecast for the same villages is 270.
	<ul style="list-style-type: none"> - Sufficient land in “V” zone to meet outstanding Small House applications? 	✓		- Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.22 ha (or equivalent to 88 Small House sites).

² Among the 43 outstanding Small House applications, 22 of them fall within the “V” zone and 21 straddle or outside the “V” zone. For those applications straddling or being outside the “V” zone, 5 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) does not support the application from agricultural development point of view as 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 by village houses, farmlands and tree groups.
6.	Within WGGs	✓		- 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. - 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) in general has reservation on the application but considers that the application only involving the development of a Small House can be tolerated.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>public drainage viewpoint.</p> <ul style="list-style-type: none"> - Approval condition on the submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - 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 Tai Mong Che and sewer connection is feasible and capacity is available.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - 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 no tree is found within the Site and significant adverse impact on existing landscape resources from the proposed development is not anticipated. - Approval condition on submission and implementation of landscape proposal is recommended.
13.	Geotechnical impact?	✓		<ul style="list-style-type: none"> - The Head of Geotechnical Engineering Office, Civil Engineering and Development 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 in-principle objection to the application unless the applicant is committed to undertake an NTHS and to provide necessary mitigation measures if found necessary as part of the proposed development. However, the applicant has not submitted a Geotechnical Planning Review Report.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- Should the application be approved, an approval condition on the submission of an NTHS and implementation of the mitigation measures recommended therein is required.
14.	Local objections conveyed by 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 IV**.

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

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

On 21.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, three public comments were received from the Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual, objecting to the application mainly on the grounds of being not in line with the planning intention of "AGR" zone; land being still available within "V" zone for Small House development; having adverse environmental impacts; and setting of undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The Site falls entirely within the “AGR” zone, which is primarily intended to retain and safeguard good quality agricultural land for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation.
- 11.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tai Mong Che and Ma Po Mei is 43 while 10-year Small House demand forecast for the same villages is 270. Based on the latest estimate by the Planning Department, about 2.22 ha (or equivalent to about 88 Small House sites) of land are available within the “V” zone of Tai Mong Che and Ma Po Mei. As more than 50% of the footprint of the proposed Small House falls within ‘VE’, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located on the west of the village proper of Tai Mong Che Village (**Plan A-2a**), is currently vacant and overgrown with grasses (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village houses, agricultural land and tree groups (**Plans A-2a and A-3**). CTP/UD&L, PlanD advises that no tree was found within the Site and has no objection to the application from landscape planning point of view as significant adverse impact on existing landscape resources due to the proposed Small House development is not anticipated.
- 11.4 The Site is within the upper indirect WGG. CE/MN, DSD advises that the Site is able to be connected to the public sewerage system in the area (**Plan A-2a**). The applicant has submitted a sewerage connection proposal and a consent letter from owner of the affected private lot (**Drawing A-2 and Appendix Ia**). 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 and adequate space within the Site will be reserved for connection. C for T in general has reservation on the application but considers that the application only involving the development of a Small House can be tolerated. Besides, H(GEO) of CEDD advises that the Site is overlooked by steep natural hillside and meets the Alert Criteria requiring an NTHS. He has in-principle objection to the application unless the applicant is committed to undertake an NTHS and to provide necessary mitigation measures if found necessary as part of the proposed development. However, the applicant has not submitted a GPRR. Other relevant Government departments including CHE/NTE of HyD, DEMS and D of FS have no objection to or adverse comment on the application.

- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the 'VE' of Tai Mong Che and Ma Po Mei 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 2.22 ha or equivalent to about 88 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 43 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. In this regard, 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 infrastructures and services.
- 11.6 There are 23 similar applications in the vicinity of the Site and within the same "AGR" zone (**Plan A-2a**). Fourteen of them (Applications No. A/NE-LT/356, 357, 358, 383, 398, 410, 438, 442, 443, 444, 453, 472, 486 and 506) were approved before the Board's adoption of a more cautious approach in approving applications for Small House development. After that, four applications (No. A/NE-LT/596, 603, 607 and 627) were approved mainly on special consideration as the application sites were the subject of previously approved applications, and two applications (No. A/NE-LT/600 and 601) were approved as they were infill sites within existing village settlements. For the three rejected applications, two of them (Applications No. A/NE-LT/446 and 619) were rejected mainly on the grounds of having adverse geotechnical impacts or land being still available within "V" zone of concerned village to meet the outstanding Small House applications respectively. The circumstances of the current application is similar to these two rejected applications.
- 11.7 Regarding the three public comments objecting to the application mainly on the grounds of being not in line with the planning intention of "AGR" zone; land being still available within "V" zone for Small House development; 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 comments 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 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 there is no information in the submission to demonstrate that the proposed development would not have adverse geotechnical impact on the surrounding area; and
- (c) land is still available within the “V” zone of Tai Mong Che and Ma Po Mei 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 2.11.2022, 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 identified 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**.

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 11.9.2018
Appendix Ia	Supplementary information received on 12.9.2018
Appendix Ib	Supplementary information received on 14.9.2018
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	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
Drawing A-2	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 Photos

**PLANNING DEPARTMENT
NOVEMBER 2018**