

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/679

<u>Applicant</u>	Mr. CHUNG Cheuk Nang represented by Mr. CHUNG Wai Wing
<u>Site</u>	Lot 1525 RP in D.D. 19, Tin Liu Ha, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	About 143.2 m 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>Zoning</u>	“Agriculture” (“AGR”)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who is an indigenous villager of Tin Liu Ha as confirmed by the respective Indigenous Inhabitant Representative (IIR)¹, 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 is a Column 2 use requiring 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 The uncovered area of the Site is proposed to be used as garden. Layout of the proposed Small House and the proposed sewerage connection are shown on **Drawing A-1**.

¹ The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the eligibility of Small House grant has yet to be ascertained.

- 1.4 The Site is the subject of two previous applications (No. A/NE-LT/623 and 666) submitted by the same applicant for the same use, which were rejected by the Board on review on 8.6.2018 and by the Committee on 31.5.2019 respectively. Compared with the last application (No. A/NE-LT/666), the footprint and development parameters of the proposed Small House remain the same under the current application.
- 1.5 In support of the application, the applicant has submitted the application form and attachment on 8.10.2019 (**Appendix I**).

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) all government departments had no adverse comments on his previous application except one department raised objection for reason of agricultural rehabilitation. However, the Site is small in size without water supply. There is no economic value for cultivation at the Site;
- (b) the Board has approved some similar applications (No. A/NE-LT/344, 345, 346 and 489) for Small House development on agricultural lots within Tin Liu Ha Village; and
- (c) should the application be approved, the applicant will comply with any approval conditions imposed by the Board.

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 Applications

- 5.1 The Site is the subject of two previous applications (No. A/NE-LT/623 and 666) submitted by the same applicant for Small House development, which were rejected by the Board on review on 8.6.2018 and by the Committee on

31.5.2019 respectively, mainly for reasons of being not in line with the planning intention of the “AGR” zone and land being still available within the concerned “Village Type Development” (“V”) zone for Small House development. Compared with the last application No. A/NE-LT/666, the footprint and development parameters of the proposed Small House under the current application remain unchanged.

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

6. Similar Applications

- 6.1 There are 11 similar applications involving seven sites 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 Three applications (No. A/NE-LT/344, 345 and 346) were approved with conditions by the Committee between 2005 and 2006 mainly on the considerations that the applications were in line with the Interim Criteria in that the Small House footprints fell entirely within the village ‘environ’ (‘VE’); there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at the time of consideration; and the proposed developments were able to be connected to the planned sewerage system in the area. Two other applications (No. A/NE-LT/489 and 635) were also approved by the Committee in 2013 and 2018 respectively mainly for reasons of being the subject of previously approved applications (No. A/NE-LT/344 and 345) and there had been no major change in planning circumstances.
- 6.3 For the six rejected applications, five of them (applications No. A/NE-LT/413, 570, 571, 578 and 618) were rejected by the Committee/the Board on review between 2011 and 2018 mainly for the reasons of being not in line with the planning intention of the “AGR” zone and not complying with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration. Applications No. A/NE-LT/570 and 578 were also rejected on the grounds that the proposed Small Houses were not able to be connected to the existing or planned sewerage system. In addition, application No. A/NE-LT/578 was rejected for reason of causing adverse landscape impact on the surroundings. The last application No. A/NE-LT/640 was rejected in August 2018 mainly on the grounds of being not in line with the planning intention of the “AGR” zone and land being still available within the “V” zone for Small House development.
- 6.4 Details of the similar applications are summarized at **Appendix IV** 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 photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) flat, currently vacant and largely hard-paved;
- (b) located at the northern fringe of Sheung Tin Liu Ha; and
- (c) accessible via a local track.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, active and fallow agricultural land and tree groups. A Small House, which is the subject of Application No. A/NE-LT/179 approved by the Committee in 1998 before the first promulgation of the Interim Criteria on 24.11.2000, is located to the immediate west of the Site. The village cluster of Sheung Tin Liu Ha is situated about 80m to the south.

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.	Within “V” zone? - Footprint of the Small House - Application site	-	100%	- The Site and the Small House footprint fall entirely within the “AGR” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100%	-	- The Site and the Small House footprint fall entirely within ‘VE’. The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?	-	✓	<u>Land Required</u> - Land required to meet Small House demand in Tin Liu Ha and Ko Tin Hom: about 3.5 ha (equivalent to 140 Small House sites). The outstanding Small House applications are 10 ² while the 10-year Small House demand forecast for Tin Liu Ha is 130. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 3.24 ha (equivalent to 129 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓	-	
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, agricultural infrastructure such as road access and water source is available, and the Site possesses potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓	-	- The surrounding area is rural in landscape character comprising scattered tree groups, village houses and farmland.
6.	Within Water Gathering Grounds (WGG)?	✓	-	- The Director of Environmental Protection (DEP) has no objection to the application as sewer connection is feasible and capacity is available for the proposed Small House development.

² Among the 10 outstanding Small House applications, 6 of them fall within the “V” zone and 4 straddle or outside the “V” zone. For those 4 applications straddling or being outside the “V” zone, one of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Sewerage impact?	✓	-	<ul style="list-style-type: none"> - The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the Site is able to be connected to the public sewerage system. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
8.	Encroachment onto planned road networks and public works boundaries?	-	✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?	-	✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no comment on the application.
10.	Traffic impact?	✓	-	<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has general reservation on the application but considers the application only involving development of one Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓	-	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application. - Approval condition on the submission and implementation of drainage proposal is required.
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 the Site is paved and no existing tree is

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				found within the Site. Significant adverse impact on landscape resources is not anticipated.
13.	Geotechnical impact	-	✓	
14.	Local objections conveyed by DO?	-	✓	

9.2 Comments from the following Government departments have been incorporated in paragraph 9.1 above. Other detailed comments are at **Appendix V**.

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

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager(North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (e) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

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

On 15.10.2019, the application was published for public inspection. During the statutory public inspection period, four public comments were received from The Hong Kong Bird Watching Society, WWF-HK, 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; being the subject of two previously rejected applications and suspected “Destroy First, Build Later” case; similar applications being rejected in the vicinity recently; and setting of an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site zoned “AGR” on the OZP. 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 also 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; agricultural infrastructure such as road access and water source is available; and the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention.
- 11.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Tin Liu Ha and Ko Tin Hom is 10 while the 10-year Small House demand forecast is 130. Based on the latest estimate by PlanD, about 3.24 ha of land (equivalent to about 129 Small House sites) are available within the “V” zone of the concerned villages. As the proposed Small House footprint falls entirely within the ‘VE’ of Sheung Tin Liu Ha, DLO/TP, LandsD has no objection to the application.
- 11.3 The Site located on the northern fringe of Sheung Tin Liu Ha (**Plan A-2a**) is currently vacant and largely hard-paved. There is a village house to the immediate west of the Site, which is the subject of a planning application (No. A/NE-LT/179) approved by the Committee on 27.11.1998 before the first promulgation of the Interim Criteria on 24.11.2000. The village cluster of Sheung Tin Liu Ha is located about 80m to the south. The proposed development is not incompatible with the existing landscape setting which is rural in character and occupied by scattered tree groups, village houses and farmland. CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as significant adverse impact on landscape resources 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 Tin Liu Ha Village (**Plan A-2a**). 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. Besides, C for T has general reservation on the application but considers the application only involving the development of one Small House can be tolerated on traffic grounds. Other relevant Government departments including CE/MN of DSD, CHE/NTE of HyD, PM(N) and H(GEO) of CEDD and D of FS have no objection to or no 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 Sheung Tin Liu Ha and the proposed development located within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 140 Small Houses, such available land (about 3.24 ha or equivalent to 129 Small House sites) is capable to meet the 10 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 The Site is the subject of two previous applications (No. A/NE-LT/623 and 666) which were rejected by the Board on review and the Committee on 8.6.2018 and 31.5.2019 respectively, mainly for reasons of being not in line with the planning intention of the "AGR" zone and land being still available within the concerned "V" zone for Small House development. As there is no major change in planning circumstances since the rejection of the last application (No. A/NE-LT/666) in May 2019, rejecting the current application is in line with the Committee's previous decision.
- 11.7 As shown on **Plan A-2a**, there are four similar applications for Small House development covering two sites in close vicinity of the Site. Three of them (Applications No. A/NE-LT/570, 571 and 618) were rejected by the Committee/the Board on review in 2016 and 2018 for the reasons that there was no general shortage of land in meeting the demand for Small House development in the "V" zone at the time of consideration. Application No. A/NE-LT/570 was also rejected on the ground of not being able to be connected to the planned sewerage system. For Application No. A/NE-LT/640, it was rejected in August 2018 mainly because land was still available within the concerned "V" zone for Small House development. The planning circumstances of the current application are similar to this latest application rejected in August 2018.
- 11.8 Regarding the public comments objecting to the application as detailed in paragraph 10, comments of government departments 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; and
- (b) land is still available within the "V" zone of Ha Tin Liu Ha, Sheung Tin Liu Ha and Ko Tin Hom 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 29.11.2021, 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 of 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 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 conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.

14. Attachments

Appendix I	Application Form and Attachment received on 8.10.2019
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 Applications
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
NOVEMBER 2019**