

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/NE-LT/689, 690 and 691

<u>Applicants</u>	Mr. LI Kin Fun Mr. CHEUNG Wing Hong Mr. WONG Cheuk Fung All represented by Ms. CHAN Kwai Ying	(Application No. A/NE-LT/689) (Application No. A/NE-LT/690) (Application No. A/NE-LT/691)
<u>Sites</u>	Lots 158 S.B, 159 S.A and 161 S.A ss.2 Lots 158 RP, 159 RP, 161 S.A ss.3 and 162 S.A ss.3 Lots 161 S.A ss.4 and 162 S.A ss.1 all in D.D. 19, Tong Min Tsuen, Lam Tsuen, Tai Po	(Application No. A/NE-LT/689) (Application No. A/NE-LT/690) (Application No. A/NE-LT/691)
<u>Site Areas</u>	About 116.5m ² About 131.34m ² About 145.13m ²	(Application No. A/NE-LT/689) (Application No. A/NE-LT/690) (Application No. A/NE-LT/691)
<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>Applications</u>	Proposed House (New Territories Exempted House (NTEH) - Small House) on each of the application sites	

1. The Proposals

- 1.1 The applicants, indigenous villagers of three recognized villages¹ as confirmed by the respective Indigenous Inhabitant Representatives (IIRs), seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**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 is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicants are eligible for Small House Grant.

1.2 Details of each of the proposed Small House developments 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 Sites is proposed to be used as garden. Layout of the proposed Small Houses and the proposed sewerage connection are shown on **Drawings A-1 to A-4**.

1.4 The Sites are the subject/part of the subject of four previous applications (No. A/NE-LT/335, 478, 479 and 480) submitted by the same applicants for the same use. All applications were approved by the Rural and New Town Planning Committee (the Committee) in 2009 and 2013, but these planning permissions have lapsed. The details of previous applications are given in paragraph 5 below. Compared with the last previous applications (No. A/NE-LT/478, 479 and 480), the footprint and development parameters of the proposed Small Houses are generally the same under the current applications.

1.5 In support of the applications, the applicants have submitted application forms with attachments on 31.8.2020 (**Appendices Ia to Ic**).

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications as stated in Part 8 of the application forms at **Appendices Ia to Ic** are summarized as follows:

- (a) the applicants forgot to apply for extension of time for commencement of the approved Small Houses in 2017. Therefore, fresh application for the proposed Small Houses is required;
- (b) the current applications are the same as the previously approved applications (No. A/NE-LT/478, 479 and 480); and
- (c) the public sewers have been completed by Drainage Services Department and it is now feasible for the applicants to connect the proposed Small Houses to the public sewerage system.

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

The applicants are the sole “current land owners”. 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. On

23.8.2002, criterion (i) which requires that the application site, if located within the 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 Sites are the subject/part of the subject of four previous applications (No. A/NE-LT/335, 478, 479 and 480) submitted by the same applicants for proposed Small House developments, which were approved by the Committee between 2009 and 2013.
- 5.2 Application No. A/NE-LT/335 for six Small Houses development (including three Small Houses under the current applications) was approved with conditions by the Committee on 9.10.2009 mainly on the grounds of being complied with the Interim Criteria in that more than 50% of the footprints of the proposed Small Houses fell within the village 'environ' ('VE') of Tong Min Tsuen and there was a general shortage of land to meet the demand for Small House development in the "V" zone at the time of consideration; and the proposed developments would be able to be connected to the public sewerage system in the area. Nonetheless, the planning permission lapsed on 10.10.2013.
- 5.3 Subsequently, three applications (No. A/NE-LT/478, 479 and 480) for the development of Small House on each of the application sites, covering the same sites of the current applications (i.e. No. A/NE-LT/689, 690 and 691), were approved by the Committee on 11.10.2013 mainly on similar considerations as set out in paragraph 5.2 above. Nonetheless, these planning permissions lapsed on 12.10.2017. Compared with the previous applications (No. A/NE-LT/478, 479 and 480), the footprint and development parameters of the proposed Small Houses are generally the same under the current applications.
- 5.4 Details of the above 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 eight similar applications for Small House development in the vicinity of the Sites and within the same "AGR" zone since the first promulgation of the Interim Criteria on 24.11.2000, of which six were approved and two were rejected.
- 6.2 Applications No. A/NE-LT/280, 296, 429, 481 and 482 were approved by the Committee between 2003 and 2013 mainly on the similar grounds as set out in paragraph 5.2 above. After the Board's adoption of a more cautious approach in August 2015, Application No. A/NE-LT/658 was approved with conditions by the Committee in 2019 mainly on sympathetic consideration as the

application site was the subject of a previously approved application (No. A/NE-LT/429).

6.3 For the remaining two applications (No. A/NE-LT/287 and 604), they were rejected by the Committee/the Board in 2003 and 2017 respectively. Apart from being not in line with the planning intention of “AGR” zone, Application No. A/NE-LT/287 was also rejected as the proposed development was not able to be connected to the existing or planned sewerage system in the area and the applicant failed to demonstrate that the proposed development within the WGG would not cause adverse impact on the water quality in the area, whereas Application No. A/NE-LT/604 was rejected as 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**.

7. The Sites and Their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)

7.1 The Sites are:

- (a) gentle sloping ground covered with shrubs and weeds;
- (b) at a lower level physically separated from the village proper of Tong Min Tsuen by a slope; and
- (c) accessible via a local track connecting to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character mainly occupied by active/fallow agricultural land, village houses, temporary structures and tree groups. Lam Tsuen River is about 40m to the west of the Sites. The village proper of Tong Min Tsuen is about 30m to the northeast of the Sites.

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 applications 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.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the Small Houses - Application sites 	-	100%	- The Sites and the proposed Small House footprints fall entirely within the “AGR” zone.
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the Small Houses A/NE-LT/689 A/NE-LT/690 A/NE-LT/691 - Application sites A/NE-LT/689 A/NE-LT/690 A/NE-LT/691 	<p>92%</p> <p>97%</p> <p>98%</p> <p>70%</p> <p>76%</p> <p>72%</p>	<p>8%</p> <p>3%</p> <p>2%</p> <p>30%</p> <p>24%</p> <p>28%</p>	<ul style="list-style-type: none"> - The Sites and the proposed Small House footprints fall largely within the ‘VE’ of Tong Min Tsuen. - DLO/TP, LandsD has no objection to the applications.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Fong Ma Po, San Uk Tsai, Tong Min (Tong Sheung) Tsuen and Chung Uk Tsuen: about 8.5 ha (equivalent to 340 Small House sites). The outstanding Small House applications are 17² while the 10-year Small House demand forecast for the same villages is 323.
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> - land available to meet Small House demand within the “V” zone of the villages concerned: about 2.89 ha (equivalent to 115 Small House sites) (Plan A-2b).

² Among the 17 outstanding Small House applications, 14 of them fall within the “V” zone and three of them straddle or outside the “V” zone. For those three applications straddling or outside the “V” zone, none of them has 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?		✓	- The Director of Agriculture, Fisheries and Conservation (DAFC) does not support the applications from the agricultural development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure is available, and the Sites possess potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character mainly occupied with village houses, temporary structures, agricultural land and tree clusters.
6.	Within WGG?	✓		- The Director of Environmental Protection (DEP) and the Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) have no objection to the applications as the Sites are 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.
7.	Sewerage Impact	✓		
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	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 applications.
10.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has general reservation on the applications but considers the applications only involving development of three Small

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Houses can be tolerated on traffic grounds.
11.	Drainage impact?	✓		- CE/MN, DSD has no in-principle objection to the applications from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
12.	Landscape impact?		✓	- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective as significant adverse impact on existing 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 objection to / no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager (North), Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;

- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

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

On 8.9.2020, the applications were published for public inspection. During the statutory public inspection period, two public comments from Designing Hong Kong and an individual were received for each of the applications objecting to the applications mainly on the grounds of being not in line with the planning intention of “AGR” zone; land being still available within the “V” zone of Tong Min Tsuen, San Uk Tsai and Lam Tsuen San Tsuen for Small House development; and setting of undesirable precedent leading to a general degradation of the rural environment of the area.

11. Planning Considerations and Assessments

- 11.1 The applications are for a proposed Small House development at each of the Sites zoned “AGR” on the OZP. The proposed developments are 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 applications from the agricultural development point of view as there are active agricultural activities in the vicinity; agricultural infrastructure such as footpath and water source is available; and the Sites possess potential for agricultural rehabilitation.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Fong Ma Po, San Uk Tsai, Tong Min (Tong Sheung) Tsuen and Chung Uk Tsuen is 17 while the 10-year Small House demand forecast for the same villages is 323. Based on the latest estimate by the Planning Department, about 2.89 ha of land (equivalent to 115 Small House sites) are available within the “V” zone concerned. As more than 50% of the proposed Small House footprints fall within the ‘VE’ of Tong Min Tsuen, DLO/TP of LandsD has no objection to the applications.
- 11.3 The Sites, located at the south-western fringe of the village cluster of Tong Min Tsuen, are on a gentle sloping ground covered with shrubs and weeds. The proposed developments are not incompatible with the surrounding area which is predominantly rural in character with a mix of active/fallow agricultural land, village houses, temporary structures and tree groups (**Plans A-2a** and **A-3**). CTP/UD&L of PlanD has no objection to the applications from landscape planning perspective as there is no significant landscape resources observed within the Sites and significant adverse impact on existing landscape resources arising from the proposed developments is not anticipated.

- 11.4 The Sites fall within the upper indirect WGG, and the applicants have proposed to connect the proposed Small Houses to the existing public sewerage system at Tong Min Tsuen, which is located near the Sites (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the applications provided that the applicants shall connect the proposed Small Houses to the public sewer at their own cost and adequate space within the Sites will be reserved for connection. C for T has general reservation on the applications but considers the applications only involving the development of three Small Houses 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 adverse comment on the applications.
- 11.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprints fall within the 'VE' of Tong Min Tsuen and the proposed developments located within WGG would be able to be connected to 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 340 Small Houses, such available land (about 2.89 ha or equivalent to 115 Small House sites) is capable to meet the 17 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 August 2015. 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 developments within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Sites are the subject of previous applications (No. A/NE-LT/478, 479 and 480) for Small House development submitted by the same applicants, which were approved by the Committee in 2013. Compared with the previously approved applications (No. A/NE-LT/478, 479 and 480), the footprints and development parameters of the proposed Small Houses are generally the same. Moreover, as advised by DLO/TP of LandsD, the processing of the Small House grant applications is at an advance stage. Hence, sympathetic consideration could be given to the current applications.
- 11.6 As shown on **Plan A-2a**, there are six similar applications covering five sites in close proximity to the Sites. Except for two applications (No. A/NE-LT/287 and 604) rejected in 2003 and 2017 respectively mainly on the grounds of not complying with the Interim Criteria in that the proposed development was not able to be connected to the existing or planned sewerage system (No. A/NE-LT/287) and land was still available within the "V" zone for Small House development (No. A/NE-LT/604), the other four applications were approved. Of which, three applications (No. A/NE-LT/429, 481 and 482) were approved before the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015. Subsequently, Application No. A/NE-LT/658, involving a site to the southeast of the Sites with previous approval, was also approved in 2019 on sympathetic consideration. The planning circumstances of the current applications are similar to the latest approved application (No. A/NE-LT/658) as there are

previous planning approvals.

- 11.7 Regarding the public comments objecting to the applications on the grounds as detailed in paragraph 10 above, 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 has no objection to the applications.
- 12.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 23.10.2024, 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 a 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 for each of the permissions are attached at **Appendix VII**.

- 12.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed development is not in line with the planning intention of the "Agriculture" 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; and

- (b) land is still available within the “Village Type Development” (“V”) zone of Fong Ma Po, San Uk Tsai, Tong Min (Tong Sheung) Tsuen and Chung Uk Tsuen 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 infrastructures and services.

13. Decision Sought

- 13.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 13.2 Should the Committee decide to approve the applications, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permissions, and the date when the validity of the permissions should expire.
- 13.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

14. Attachments

Appendix Ia	Application form and attachment received on 31.8.2020 (A/NE-LT/689)
Appendix Ib	Application form and attachment received on 31.8.2020 (A/NE-LT/690)
Appendix Ic	Application form and attachment received on 31.8.2020 (A/NE-LT/691)
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in 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	Layout plan submitted by the applicant (A/NE-LT/689)
Drawing A-2	Layout plan submitted by the applicant (A/NE-LT/690)
Drawing A-3	Layout plan submitted by the applicant (A/NE-LT/691)
Drawing A-4	Sewerage connection proposal submitted by the applicants (A/NE-LT/689, 690 and 691)
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
OCTOBER 2020**