

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-LT/680**

- Applicant** Mr. CHUNG Yiu Man represented by Mr. HUI Kwan Yee
- Site** Lots 1212 S.A ss.2 and 1214 S.B in D.D. 19, Lam Tsuen San Tsuen, Tai Po, New Territories
- Site Area** About 102.8m<sup>2</sup>
- Lease** Block Government Lease (demised for agricultural use)
- Plan** Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zonings** “Agriculture” (“AGR”) (about 95%) and  
“Village Type Development” (“V”) (about 5%)
- Application** Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Tai Om Shan<sup>1</sup> as confirmed by the respective Indigenous Inhabitant Representative, 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, whilst ‘House (NTEH only)’ is always permitted in the “V” zone, ‘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).

1.2 Details of the proposed Small House development are as follows:

Total floor area	:	195.09m <sup>2</sup>
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

1.3 Layout of the proposed Small House development and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively.

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

- 1.4 The Site is the subject of a previous application (No. A/NE-LT/591) rejected by the Board upon review on 10.2.2017. That application was submitted by a different applicant. The footprint and development parameters of the proposed Small House under current application are generally the same as the previously rejected application.
- 1.5 In support of the application, the applicant has submitted an application form with attachments and supplementary information on 24.12.2019 and 30.12.2019 respectively (**Appendix I**).
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 21.2.2020 for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application. ~~The application is now scheduled for consideration by the Rural and New Town Planning Committee at this meeting.~~ ***Again, the meeting on 30.3.2020 has been rescheduled and the application is now scheduled for consideration by the Committee at this meeting.***

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application as stated in Part 8 of the application form at **Appendix I** are summarized as follows:

- (a) the proposed Small House development will be built on a piece of vacant agricultural land;
- (b) there is no other land available for the proposed Small House development; and
- (c) similar Small House developments can be found in the vicinity of the Site.

## **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. 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 Application**

- 5.1 The Site is the subject of a previous application (No. A/NE-LT/591) submitted by a different applicant for the same use with the same Small House footprint

and development parameters. That application was rejected by the Board on review on 10.2.2017 for the reasons of being not in line with the “AGR” zone and land being still available within the concerned villages for Small House development.

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

## 6. Similar Applications

- 6.1 There are 54 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**), of which 14 were approved with conditions, 39 were rejected and one was partially approved and partially rejected.
- 6.2 Regarding the approved applications, six of them (No. A/NE-LT/273, 328, 329, 334, 335 and 364) were approved with conditions by the Committee between 2002 and 2006 mainly for reasons of being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the ‘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 development was able to be connected to the planned sewerage system in the area (except application No. A/NE-LT/273<sup>2</sup>). Subsequently, four applications (No. A/NE-LT/408, 464, 467 and 624) were approved between 2010 and 2017 mainly on sympathetic consideration as they were the subject of previously approved cases. Another three applications (No. A/NE-LT/452, 456 and 593) were approved between 2012 and 2016 mainly because the proposed Small House was considered as an infill development.
- 6.3 For application No. A/NE-LT/459 which involved two proposed Small Houses (**Plan A-2a**), House No. 1 was approved in 2012 on sympathetic consideration in that the majority of the proposed Small House footprint fell within the “V” zone (about 83%) whereas House No. 2 with less than 50% of its footprint falling within the “V” zone was rejected as it did not warrant the same sympathetic consideration. Subsequently, application No. A/NE-LT/475 covering the rejected House No. 2 site with more than 50% of the proposed Small House footprint within the “V” zone was approved in 2013 on sympathetic consideration.
- 6.4 The remaining 39 applications (No. A/NE-LT/281 to 285, 302 to 306, 319 to 327, 337, 435, 488, 491, 496, 500, 509, 552, 563, 566, 567, 589, 590, 602, 612, 613, 638, 639, 663 and 665) were rejected by the Committee/the Board on review between 2003 and 2019 mainly for one or more of the reasons of not being in line with the planning intention of “AGR” zone; 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 at the time of consideration; and failed to demonstrate that the proposed developments located within WGG

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<sup>2</sup> Application No. A/NE-LT/273 was approved before the incorporation of criterion (i) on sewerage connection requirement in the Interim Criteria in August 2002.

would not cause adverse impact on the water quality in the area. Applications No. A/NE-LT/509 and 638 were also rejected because more than 50% of the footprint of proposed Small House fell outside the “V” zone and the ‘VE’ of the village concerned, and applications No. A/NE-LT/612 and 613 were also rejected for reason of having adverse landscape impact on the surrounding areas.

6.5 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 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 overgrown with some weeds;
- (b) located at the southern fringe of Lam Tsuen San Tsuen; and
- (c) accessible from a local track leading to Lam Kam Road.

7.2 The surrounding areas are predominantly rural in character with a mix of village houses, temporary structures, active/fallow agricultural land and tree groups. The village cluster of Lam Tsuen San Tsuen is situated about 50m to the northeast of the Site.

**8. Planning Intentions**

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

8.2 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

**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"> <li>- Footprint of the Small House</li> <li>- Application site</li> </ul>	<p>0.5%</p> <p>5%</p>	<p>99.5%</p> <p>95%</p>	<ul style="list-style-type: none"> <li>- The remaining portion of the Site and the Small House footprint fall within the “AGR” zone.</li> </ul>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- Footprint of the Small House</li> <li>- Application site</li> </ul>	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> <li>- The Site and the Small House footprint fall entirely within the ‘VE’ of San Tsuen Lo Wai and Lam Tsuen San Tsuen.</li> <li>- The District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.</li> </ul>
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>	<p>✓</p>		<p><u>Land Required</u></p> <ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Lam Tsuen San Tsuen: about 2.03ha (equivalent to 81 Small House sites). The outstanding Small House applications are 47<sup>3</sup> while the 10-year Small House demand forecast for the same village is 34.</li> </ul> <p><u>Land Available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet Small House demand within the “V” zone of the village concerned: about 2.48 ha (equivalent to 99 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	<p>✓</p>		
4.	<p>Compatible with the planning intention of “AGR” zone?</p>		<p>✓</p>	<ul style="list-style-type: none"> <li>- 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 water source and footpath is available, and the Site possesses</li> </ul>

<sup>3</sup> Among the 47 outstanding Small House applications, 35 of them fall within the “V” zone and 12 straddle or outside the “V” zone. For those 12 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>
				potential for agricultural rehabilitation.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character occupied by scattered tree groups, village houses and farmland.
6.	Within Water Gathering Ground (WGG)?	✓		- The Director of Environmental Protection (DEP) and the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no objection to the application.  - 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 application.
10.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no in-principle objection to the application.
11.	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.
12.	Landscape impact?	✓		- The Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L,

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>PlanD) has reservation on the application from landscape planning point of view as the proposed development would have direct conflict with the existing tree and tree felling is necessary.</p> <p>- Approval of the application would encourage similar Small House applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in extension of village development into “AGR” zone which may cause further degradation of the landscape resources in the “AGR” zone.</p>
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) Director of Environmental Protection;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Commissioner for Transport;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Agriculture, Fisheries and Conservation;
- (g) Director of Fire Services; and
- (h) Chief Engineer/Construction, Water Supplies Department.

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

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

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

On 3.1.2020, the application was published for public inspection. During the statutory public inspection period, three public comments were received from the Village Representative of San Tong Tsuen (with 26 signatures), the Hong Kong Bird Watching Society 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 the “V” zone of Lam Tsuen San Tsuen for Small House development; suspected “Destroy First, Build Later” case; setting of an undesirable precedent; the village boundary of San Tsuen Village should not be included in that for San Tong Village; and the proposed development would destroy the ‘fung shui’ of San Tong Village.

## 11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site largely zoned “AGR” (about 95%) with a minor portion zoned “V” (about 5%) 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 water source and footpath are 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 of the “AGR” zone.
- 11.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Lam Tsuen San Tsuen is 47 while the 10-year Small House demand forecast for the same village is 34. Based on the latest estimate by the Planning Department, about 2.48 ha of land (equivalent to 99 Small House sites) are available within the “V” zone concerned. As the proposed Small House footprint falls entirely within the ‘VE’ of Lam Tsuen San Tsuen and San Tsuen Lo Wai, DLO/TP of LandsD has no objection to the application.
- 11.3 The Site, located at the southern fringe of Lam Tsuen San Tsuen, is currently vacant and overgrown with weeds. Cluster of village houses are situated to the northeast of the Site. The proposed development is not incompatible with the surrounding area which is predominantly rural in character with a mix of scattered tree groups, village houses and farmland (**Plans A-2a and A-3**). CTP/UD&L of PlanD has some reservations on the application from landscape planning point of view as the proposed development would have direct conflict with the existing tree (i.e. *Melia azedarach* (楝)) and tree felling is necessary. Approval of the application would encourage similar Small House applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in extension of village development into “AGR” zone which may cause further degradation of the landscape resources in the “AGR” zone.



- 11.4 The Site falls within the upper indirect WGG and the applicant has proposed to connect the proposed Small House to the existing public sewerage system at Lam Tsuen San Tsuen, which is located near the Site (**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. Other relevant Government departments including C for T, 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 application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), while more than 50% of the proposed Small House footprint falls within the 'VE' of Lam Tsuen San Tsuen and San Tsuen Lo Wai and the proposed development located 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 2.48 ha or equivalent to 99 Small House sites) to fully meet the future demand of 81 Small Houses (equivalent to about 2.03 ha). 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 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 a previous application (No. A/NE-LT/591) which was rejected on review by the Board on 10.2.2017 mainly for the reasons of being not in line with the planning intention of the "AGR" zone and land being still available within the "V" zone of the concerned villages for Small House development. As there is no major change in planning circumstances since the rejection of the last application (No. A/NE-LT/591), rejecting the current application is in line with the Board's previous decision.
- 11.7 As shown on **Plan A-2a**, there are 12 applications in close proximity to the Site. Six of them (Applications No. A/NE-LT/364, 452, 459 (partial), 464, 475 and 624) were approved between 2006 and 2017. Application No. A/NE-LT/364 was approved mainly for the reason of generally complying with the Interim Criteria in that there was general shortage of land in the "V" zone to meet the demand for Small House development of the concerned village at the time of consideration, and the subsequent two applications (No. A/NE-LT/464 and 624) were approved mainly on sympathetic consideration as they were subject of previous approval. For the other three approved applications (No. A/NE-LT/452, 459 and 475), they were approved mainly because the majority of the proposed Small House footprint fell within the "V" zone. Regarding the six rejected applications, four of them (Applications No. A/NE-LT/488, 491, 500 and 602) were rejected mainly for reasons 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 the "V" zone concerned at the time of consideration. Regarding the remaining two rejected applications (No. A/NE-LT/590 and 663) covering the same site, they were rejected mainly on consideration that land was still available within the "V" zone for Small House development. The planning circumstances of the current application is similar to these two rejected cases, which are situated to the immediate northeast of the Site.

- 11.8 Regarding the public comments objecting to the application 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 does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the "Agriculture" ("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;
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of Lam Tsuen San Tsuen; and
- (c) land is still available within the "V" zone of Lam Tsuen San 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.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until ~~30.3.2024~~ **26.5.2024**, 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 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, if any, 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 24.12.2019 and supplementary information dated 30.12.2019
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 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	Location 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 photo

**PLANNING DEPARTMENT  
MARCH MAY 2020**