

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/859

<u>Applicant</u>	: Mr. CHEUNG Po Man represented by Tang Surveys Ltd.
<u>Site</u>	: Lot 187 S.K. ss. 3 in D.D.108, Ta Shek Wu, Pat Heung, Yuen Long
<u>Site Area</u>	: About 120.3 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	: “Village Type Development” (“V”) (about 73%, i.e. 87.8m ²) [Maximum building height of 3 storeys (8.23m)] “Residential (Group D)” (“R(D)”) (about 27%, i.e. 32.5m ²) [Maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m) except New Territories Exempted House]
<u>Application</u>	: Proposed House (New Territories Exempted House – Small House) and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to build a house (New Territories Exempted House (NTEH) - Small House) and excavation of land at the application Site (the Site) (**Plan A-1**). As indicated by the applicant, he is an indigenous villager of Ta Shek Wu. According to the Notes of the OZP, ‘House (NTEH only)’ is a use always permitted within “V” zone, whereas ‘House (not elsewhere specified)’ in “R(D)” zone¹ requires planning permission from the Town Planning Board (the Board). Excavation of land in both “V” and “R(D)” zones also requires planning permission from the Board. The Site is paved and forms part of an open storage yard (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application No. A/YL-PH/730 for the same applied development by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 22.4.2016.

¹ ‘House (Redevelopment; Addition, Alteration and / or Modification to existing house only)’ is always permitted in the subject “R(D)” zone.

However, the development had not commenced and the planning permission lapsed on 23.4.2020. Compared with the previous application, the footprint and development parameters of the proposed Small House and extent of excavation remain the same under the current application.

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

Total Floor Area	: 195.09m ²
Number of storeys	: 3
Building height	: 8.23m
Roofed over area	: 65.03m ²

1.4 The applicant indicated that excavation of land not exceeding 1.2 m below ground level with an area of 65.03m² will be involved for site formation works. The open area of the Site will be used for circulation purposes. The layout of the proposed Small House is shown at **Drawing A-1**.

1.5 In support of the application, the applicant has submitted an application form received on 29.9.2020 (**Appendix I**).

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I**. They can be summarized as follows:

- (a) The previous application No. A/YL-PH/730 for the same applied use was approved in 2016, and subsequently the applicant had applied to the Lands Department to take forward the development. Due to the time required in processing land matters, the development had not been able to commence on or before 22.4.2020. As a result, the applicant has submitted this application to continue pursuing the proposed Small House development.
- (b) There is no change to the proposed development when compared with the previous approved planning application.

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

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

4. **Assessment Criteria**

The latest set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria), which was promulgated on 7.9.2007, is at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action.

6. Previous Application

The Site was involved in a previous application (No. A/YL-PH/730) for the same applied use submitted by the same applicant. The application was approved with conditions by the Committee on 22.4.2016 mainly on considerations that the proposed Small House development was generally in line with the planning intention of the “V” zone and not in conflict with the planning intention of the “R(D)” zone; it complied with the Interim Criteria in that more than 50% of the site and footprint of the proposed Small House was located in the “V” zone and there is a general shortage of land in meeting the demand of Small House development; it was not incompatible with the surrounding areas; and relevant departments and no adverse comment on the application. However, the development had not commenced and the planning permission lapsed on 23.4.2020. Details of the application are summarized in **Appendix III** and the location of the site is shown on **Plan A-1**.

7. Similar Application

There is no similar application for house (NTEH - Small House) and excavation of land within the same “V” and “R(D)” zones.

8. The Site and Its Surrounding Area (Plans A-2a to A-4)

8.1 The Site is:

- (a) paved and currently forms part of an open storage yard of construction materials; and
- (b) accessible via a track branching off Fan Kam Road.

8.2 The surrounding area is predominantly rural in character intermixed with residential structures / dwellings, open storage/storage yards, parking of vehicles, warehouse, workshop and vacant / unused land:

- (a) to the south and east are residential structures / dwellings, open storage yards, parking of vehicles, a stream and vacant land within the “V” zone; and
- (b) to its north and west in the “R(D)” zone are residential structures / dwellings, open storage yards, workshop, warehouse and vacant / unused land.

9. Planning Intentions

9.1 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. Selected commercial and community uses serving the

needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

- 9.2 The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. **Planning Assessment and Comments from Relevant Government Departments**

- 10.1 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 proposed Small House - Application site	✓ 77% ✓ 73%		
2.	Within ‘VE’? - Footprint of the proposed Small House - Application Site	- -	- -	District Lands Officer / Yuen Long, Lands Department (DLO/YL, LandsD) advised that the village environs boundary (VEB) in respect of Ta Shek Wu has yet to be defined.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Ta Shek Wu: about 2.28 ha (equivalent to 91 Small House sites). The outstanding Small House application is 1 ² while the 10-year Small House demand forecast for the same village is 90.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the village concerned: about 0.47 ha (equivalent to about 19 Small House sites). (Plan A-2b)

² The one outstanding Small House application falls within the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “R(D)” zone?	✓		The proposed Small House development is not in conflict with the planning intention of the “R(D)” zone which is primarily for improving and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low density residential developments subject to planning permission from the Board.
5.	Compatible with surrounding area / development?	✓		The surrounding area is predominantly rural in character intermixed with residential structures / dwellings and vacant / unused land.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations (FSIs) and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no specific comment on the application subject to the fire safety requirements as stipulated in the “New Territories Exempted Houses – A Guide to Fire Safety Requirements” are complied with.
9.	Traffic impact?		✓	The Commissioner for Transport (C for T) has no comment on the application, considering there is neither parking provision nor vehicular access to the lot and the induced traffic is minimal.
10.	Drainage impact?		✓	The Chief Engineer / Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the proposed development from public drainage point of view. Approval conditions requiring the submission and implementation of drainage proposal is required.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impact?		✓	In view of the small scale and nature of the proposed development, the Director of Environmental Protection (DEP) has no objection to the application from environmental planning perspective, and considers septic tank and soakaway system a suitable treatment system.
12.	Local objection received?		✓	The District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) has not received any comments from locals upon close of consultation and has no particular comment on the application.

10.2 Comments from the following departments have been incorporated in paragraph 10.1 above. Their other detailed comments, if any, are at **Appendix IV**.

- (a) DLO/YL, LandsD;
- (b) DEP;
- (c) Chief Highway Engineer/NT West, Highways Department;
- (d) CE/MN, DSD;
- (e) C for T;
- (f) D of FS;
- (g) Chief Buildings Surveyor/ New Territories West, Buildings Department; and
- (h) DO(YL), HAD.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Head (Geotechnical Engineering Office), Civil Engineering and Development Department; and
- (e) Commissioner of Police.

11. Public Comment Received During the Statutory Publication Period

On 9.10.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix V**), objecting to the application mainly on the grounds that the application should be considered as a new application, new developments located within Water Gathering Grounds³ should connect to the public sewerage system, and the Site is located in proximity to a stream.

³ The statement is incorrect. The Site falls outside of any Water Gathering Ground.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed Small House development and excavation of land of about 1.2m at the Site partly zoned “V” (about 73%) and partly zoned “R(D)” (about 27%) on the OZP. 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. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and for low-rise, low-density residential developments subject to planning permission from the Board. The applicant stated that the excavation of land is for site formation purpose. The proposed development is generally in line with the planning intentions of the “V” zone and the “R(D)” zone.
- 12.2 The proposed development is considered not incompatible with the surrounding area which is predominantly rural in character intermixed with residential structures / dwellings and vacant / unused land. Relevant government departments consulted, including C for T, CE/MN of DSD and D of FS, have no adverse comment on or no objection to the application.
- 12.3 According to DLO/YL, LandsD’s record, the total number of outstanding Small House application for Ta Shek Wu is 1. As provided by the Indigenous Inhabitant Representatives of the village, the 10-year Small House demand forecast for Ta Shek Wu is 90. Based on the latest estimate by Planning Department, there is about 0.47 ha of land (equivalent to 19 Small House sites) available within the “V” zone concerned. Hence, there is sufficient land available within the “V” zone to meet the 1 outstanding Small House application but cannot fully meet the 10-year Small House demand of Ta Shek Wu (**Plan A-2b**).
- 12.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the Site (about 73%) and the footprint of the proposed Small House (about 77%) are located within the “V” zone, whilst the VEB in respect of Ta Shek Wu has yet to be defined. While land available within the “V” zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 91 Small Houses, such available land (about 0.47ha or equivalent to 19 Small House sites) is capable of meeting the 1 outstanding Small House application. 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 developments within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is the subject of a previous application (No. A/YL-PH/730) for Small House development submitted by the same applicant, which was approved with conditions by the Committee in 2016. Compared with the previous approved application (No. A/YL-PH/730), there is no change in the Small House footprint and major development parameters. Moreover, as advised by DLO/YL of LandsD, the Small House application at the Site has been approved by LandsD pending execution of Building License No. 14757. Hence, given the

advance status of application and major part of the Site and footprint of the proposed Small House being within the “V” zone, sympathetic consideration could be given to the current application.

- 12.5 There are no similar applications for house (NTEH – Small House) and excavation of land within the same “V” and “R(D)” zones.
- 12.6 A public comment objecting to the application was received during the statutory publication period on the grounds as detailed in paragraph 11 above. In this regard, relevant Government departments’ comments as well as the planning considerations and assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account of the public comment in paragraph 11 above, PlanD has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.11.2024, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

land is still available within the “Village Type Development” (“V”) zone of Ta Shek Wu Village 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for the rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 29.9.2020
Appendix II	Extract of the Relevant Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Previous Application
Appendix IV	Comments from relevant Government departments
Appendix V	Public comment received during the statutory publication period
Appendix VI	Advisory clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**