

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

**APPLICATION NO. A/YL-PH/835**

<b><u>Applicant</u></b>	: 鄧亦佃 Mr. Tang Jek Tin Jacky represented by 志科有限公司 Chief Force Limited
<b><u>Site</u></b>	: Lot 2961 RP (Part) in D.D. 111, Lo Uk Tsuen, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 380m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Residential (Group D)” (“R(D)”) [restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m) except New Territories Exempted House (NTEH)]
<b><u>Application</u></b>	: Proposed House (New Territories Exempted House – Small House)

**1. The Proposal**

- 1.1 The applicant seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Lo Uk Tsuen, Pat Heung. As indicated by the applicant, he is an indigenous villager of Lo Uk Tsuen<sup>1</sup>. According to the Notes of the OZP, ‘House (not elsewhere specified)’ in “R(D)” zone requires planning permission from the Town Planning Board (the Board). The Site is the subject of a previous application No. A/YL-PH/798 for the same applied use with an identical scheme submitted by the same applicant, which was rejected by the Board on review in 2019. The Site is currently used for open storage of vehicles for sale (**Plan A-2a**).
- 1.2 Layout of the proposed house, septic tank and fire services installation proposals are at **Drawings A-1 to A-3** and the major development parameters are as follows:

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<sup>1</sup> As advised by the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD), the indigenous villager’s status and eligibility of the applicant has not yet been verified.

Covered Area	: 65.03 m <sup>2</sup>
Total Gross Floor Area	: 195.09 m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23m

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with planning statement and plans (**Appendix I**) received on 12.3.2020

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

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

- (a) Wang Toi Shan Lo Uk Tsuen is a recognized village according to the Lands Department and indigenous villagers are entitled to construct NTEHs in the village. According to the “Controlling Officer’s Reply for the Examination of Estimates of Expenditure 2018 – 2019”, there is no defined ‘Village Environ’ (‘VE’) for Lo Uk Tsuen. However, if a site is within a distance of 300 feet from the edge of the last village type house of the recognized village in 1972, even without the defined VE and falls outside the “Village Type Development” (“V”) zone, the applicant can still submit an application to the Board. If planning permission is obtained, the Lands Department would consider the Small House application. As shown in the attachment of the planning statement, there are old house lots within 300 feet of the Site.
- (b) The Site is the only land owned by the applicant’s family. The applicant wishes to construct a Small House at the Site to address his family’s congested living environment. Should the application be approved, ownership of the Site will be transferred to the applicant.
- (c) There are also similar applications within the “R(D)” zone in Yuen Long and Sai Kung approved by the Board.
- (d) The Site is located within Small House cluster and no adverse impact on the environment is anticipated. The Site is accessible by emergency vehicular access. Appropriate drainage facilities and fire service installations (FSIs) will be provided. To minimize noise impact, solid boundary fencing and double glazed window will be provided.

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

The applicant is not a “current land owner” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A)

by obtaining consent of 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/798) for the same applied use with an identical scheme submitted by the same applicant. The application was rejected by the Board on review on 26.4.2019 mainly for the reasons that the application did not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House fell entirely outside the “VE” of any recognized village and “V” zones<sup>2</sup>; land was still available within the nearby “V” zones; and there was no exceptional circumstance to justify the approval of the application. 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 one similar application (Application No. A/YL-PH/540) for proposed House (NTEH - Small House), which partly falls within the same “R(D)” zone and partly within the adjacent “V” zone, approved with conditions by the Rural and New Town Planning Committee (the Committee) on 11.5.2007 mainly for the reasons that the proposed development generally complied with the then Interim Criteria in that it fell within ‘VE’ of Wang Toi Shan and 77% of the NTEH footprint fell within “V” zone; it was not incompatible with the surrounding area; and there was no adverse comment from relevant departments. Details of the application are at **Appendix IV** and its location is shown on **Plan A-1**.

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<sup>2</sup> In Application No. A/YL-PH/798, the applicant only put forth that the application site was less than 300 feet from two old schedule house lots with village houses built before 1972 at the review hearing stage, and therefore DLO/YL, LandsD could not be duly asked to confirm the claim.

**8. The Site and Its Surrounding Area (Plans A-2a, A-3 and A-4)**

8.1 The Site is:

- (a) paved, fenced and currently used as open storage for vehicles for sale;
- (b) not within the ‘VE’ of any recognized village; and
- (c) accessible from Kam Tin Road.

8.2 The surrounding area is predominantly rural in character intermixed with residential dwellings/structures, open storage / storage yards, workshops, film studio, plant nursery and vacant / unused land:

- (a) to its north and northwest within the “V” zone are mainly residential dwellings/structures. To its further north and west are open storage yards and vacant / unused land;
- (b) to its east within the “R(D)” zone are mainly open storage/storage yards and vehicle repair workshops; and
- (c) to its south across Kam Tin Road are open storage yards, vehicle repair workshops, a plant nursery and a film studio.

**9. Planning Intention**

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. Comments from Relevant Government Departments**

10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			- The Site and footprint of the proposed Small House fall entirely within “R(D)” zone.
	- Footprint of the proposed Small House	--	100%	
	- Application site	--	100%	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> <li>- Footprint of the proposed Small House</li> <li>- Application site</li> </ul>	--	100%	- DLO/YL, LandsD has advised that the Site does not fall within any defined ‘VE’ / Village Environ Boundary of any recognized village <sup>3</sup> , but it is located within a distance of 300 feet from the edge of the last village type house (“VTH”) built in 1972 (i.e. Lot No. 2958A and Lot No. 2958B & C R.P. in D.D. 111 ( <b>Plan A-2a</b> )). Application for Small House will be considered by their office in accordance with the New Territories Small House policy if planning permission is obtained.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang (the Villages): about 44.35ha (equivalent to about 1,774 Small House sites). The outstanding Small House applications for the Villages are 74<sup>4</sup> while the 10-year Small House demand forecast for the Villages is about 1,700.</li> </ul>
	<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"> <li>- Land available to meet the Small House demand within the “V” zone of the Villages: about 29.48ha (equivalent to about 1,179 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>In line with the planning intention of “R(D)” zone?</p>	✓		
5.	<p>Compatible with surrounding area/development?</p>	✓		- The Site is located in an area predominantly rural in character with residential dwellings/structures on the north within the “V” zone.

<sup>3</sup> According to DLO/YL, LandsD, there is no defined Village Environ Boundary for Wang Toi Shan, Lo Uk Tsuen and Chuk Hang while the Site falls outside the ‘VE’ of Leung Uk Tsuen. ‘VE’ generally refers to the area within a 300-foot radius from the edge of the last Village Type House built before the introduction of the Small House Policy on 1.12.1972.

<sup>4</sup> Among the 74 outstanding Small House applications, all of them fall within the “V” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Encroachment onto planned road networks and public works boundaries?		✓	
7.	Need for provision of FSIs and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no specific comment on the application. The applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD
8.	Local objections 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. No public comment was received.
9.	Others		✓	- Detailed comments of Government departments are at <b>Appendix V</b> .

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

- (a) DLO/YL, LandsD;
- (b) Director of Environmental Protection (DEP);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Commissioner for Transport (C for T);
- (f) D of FS;
- (g) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (h) Director of Agriculture, Fisheries and Conservation (DAFC);
- (i) Director of Electrical and Mechanical Services (DEMS); and
- (j) DO(YL), HAD.

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

- (a) Chief Engineer/Construction, Water Supplies Department;

- (b) Project Manager (West), Civil Engineering and Development Department; and
- (c) Commissioner of Police.

## 11. Public Comment Received During Statutory Publication Period

On 24.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## 12. Planning Considerations and Assessments

- 12.1 The application is for proposed House (NTEH – Small House) at the Site zoned “R(D)”. The planning intention of “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 also for low-rise, low-density residential developments subject to planning permission from the Board. The proposed Small House development which will phase out existing open storage use at the Site is generally in line with the planning intention of the “R(D)” zone.
- 12.2 According to DLO/YL, LandsD, the total number of outstanding Small House applications for Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang is 74. As provided by the Indigenous Inhabitant Representatives of the villages, the 10-year Small House demand forecast for these villages is about 1,700. Based on the latest estimate by PlanD, about 29.48ha (or equivalent to about 1,179 Small House sites) of land is available within the “V” zone. There is sufficient land available within the “V” zone to meet the outstanding Small House applications but cannot fully meet the 10-year Small House demand of the concerned villages (**Plan A-2b**).
- 12.3 Regarding the Interim Criteria (**Appendix II**), DLO/YL, LandsD advised that while the Site does not fall within any defined ‘VE’ of any recognized village, it is located within a distance of 300 feet from the edge of the last VTH built in 1972 and Small House application would be considered by his office in accordance with the New Territories Small House policy if planning permission is obtained. While land available within the “V” zone (about 29.48 ha or equivalent to 1,179 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 1,774 Small Houses, such available land is capable of meeting the outstanding 74 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 infrastructure and services. There is no exceptional circumstance to justify approval of the application.

- 12.4 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.
- 12.5 The Site is the subject of a previous planning application No. A/YL-PH/798 for the same applied use with an identical scheme submitted by the same applicant. It was rejected by the Board on review in 2019 mainly on the grounds that the application did not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House fell entirely outside the “V” zones and the ‘VE’ of any recognized village; land was still available within the nearby “V” zones; and there was no exceptional circumstance to justify the approval of the application. A similar application (No. A/YL-PH/540) straddling the same “R(D)” zone and adjoining “V” zone was approved with conditions by the Committee in 2007 mainly for the reason that the proposed development was in line with the then Interim Criteria as it fell entirely within the ‘VE’ of Wang Toi Shan and about 77% of the proposed NTEH footprint fell within the “V” zone (**Plan A-1**). The circumstances of that case are different from those of the current application.
- 12.6 No public comment was received during the public inspection period.

### 13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department does not support the application for the following reason:

land is still available within the “V” zone of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services. There is no exceptional circumstance to justify approval of the application.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 24.4.2024, 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 approval conditions 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**.

#### **14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permissions.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

#### **15. Attachments**

<b>Appendix I</b>	Application Form with planning statement and plans received on 12.3.2020
<b>Appendix II</b>	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories
<b>Appendix III</b>	Previous application covering the Site
<b>Appendix IV</b>	Similar Application for Proposed House (NTEH - Small House) within the Same “R(D)” Zone on the Pat Heung OZP
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	EVA Plan
<b>Drawing A-3</b>	FSIs Proposal
<b>Plan A-1</b>	Location Plan with Similar Application
<b>Plan A-2a</b>	Site Plan

<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the “V” Zone
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2020**