

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

**APPLICATION NOS. A/FSS/263 and 264**

- Applicants** : Mr. Tsang Hang-wai (Application No. A/FSS/263)  
Mr. Tsang Wai-lun (Application No. A/FSS/264)  
  
Both represented by Shing Yue Construction and Engineering Limited
- Sites** : Government lands in D.D. 91, Ng Uk Tsuen, Sheung Shui, New Territories
- Site Areas** : 65.03 m<sup>2</sup> (about) (Application No. A/FSS/263)  
65.03 m<sup>2</sup> (about) (Application No. A/FSS/264)
- Land Status** : Government Land
- Plan** : Approved Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/22
- Zoning** : “Green Belt” (“GB”)
- Applications** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposals**

- 1.1 The applicants<sup>1</sup>, who claim to be indigenous villagers of Ng Uk Tsuen, seek planning permission to build a NTEH (Small House) on each of the application sites (the Sites) in Ng Uk Tsuen, Sheung Shui. The Sites fall within an area zoned “GB” on the approved Fanling/Sheung Shui OZP No. S/FSS/22 (**Plans A-1, A-2a to 2c, and A-3**). According to the Notes of the OZP, development of ‘House’ is a column 2 use within the “GB” zone, which requires planning permission from the Town Planning Board (the Board). The Sites are currently vacant and covered with grass and shrubs (**Plan A-4**).
- 1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

Total Domestic Floor Area	: 195.09 m <sup>2</sup>
Covered Area	: 65.03 m <sup>2</sup>
Number of Proposed House	: 1
No. of Storeys	: 3
Building Height	: 8.23 m

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<sup>1</sup> As advised by the District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant of application No. A/FSS/263 claims himself to be indigenous villagers of Ng Uk Tsuen. His eligibility for Small House concessionary grants has yet to be ascertained. For the applicant of application No. A/FSS/264, he is an indigenous villager of Ng Uk Tsuen.

1.3 In support of the applications, the applicants have submitted the following documents:

- (a) Application Forms with attachments, which were (**Appendices I and II**) received on 5.1.2018
- (b) Letter with clarifications on the status of Small (**Appendix IIa**) House grant application for the proposed NTEHs, which was received on 9.2.2018

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed in Part 9 of the Application forms and further information (FI) at **Appendices I, II and IIa**. They can be summarised as follows:

- (a) the applicants are indigenous villagers of Ng Uk Tsuen and are entitled to a Small House each under the current Small House policy;
- (b) the proposed NTEHs are located within the ‘village environ’ (‘VE’) of Ng Uk Tsuen;
- (c) there is shortage of land within the “Village Type Development” (“V”) zone for the increasing population. The applicants do not have any land within the “V” zone;
- (d) the proposed Small House developments are compatible to the surrounding land uses. The proposed Small House developments would not cause environmental impacts to the surrounding areas;
- (e) should the applications be approved, the applicants will adopt effective measures to ensure that the proposed Small House developments would not affect the surrounding environment; and
- (f) the Sites are on Government land that require longer processing time for small house grant applications compared with private lots. According to North District Lands Office, the small house grant applications for the Sites are still processing.

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

As the sites involve Government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) is not applicable to the applications.

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ promulgated in July 1991 is relevant. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas. With the exception of NTEHs, a plot ratio up to 0.4 for residential development may be permitted;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads, and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development should not overstrain the overall provision of Government, Institution or Community (G/IC) facilities in the general area; and
- (h) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

## 5. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House/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 respectively. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix III**.

## 6. Previous Applications

- 6.1 The Sites are the subject of previous applications (Nos. A/FSS/185 and 186) for the development of a Small House on each of the Sites respectively submitted by the same applicants of the current applications. The applications were approved with conditions by the Board on 12.2.2010 mainly on the considerations that there was a shortage of land available to meet the Small House demand in Ng Uk Tsuen;

the proposed Small Houses generally complied with the Interim Criteria for assessing planning application for NTEH/Small House development; and the proposed Small Houses were not incompatible to the adjacent village setting of Ng Uk Tsuen and the residential development in the east and south. The planning permissions were extended once for 48 months on 12.2.2014 and were lapsed on 13.2.2018. As compared with the previously approved applications Nos. A/FSS/185 and 186, all development parameters of the current applications remain unchanged.

- 6.2 Details of the applications are attached at **Appendix IV** and the locations are shown on **Plan A-1**.

## 7. **Similar Applications**

- 7.1 5 similar applications (Nos. A/FSS/188, 190, 191, 257 and 258) for proposed house (NTEH – Small House) on 3 separate sites were approved by the Committee on 19.3.2010, 23.4.2010, 7.5.2010 and 17.3.2017 (Nos. 257 and 258) respectively. All these applications were approved mainly on the consideration that there was a shortage of land available to meet the Small House demand in Ng Uk Tsuen; the proposed Small House generally complied with the Interim Criteria for assessing planning application for NTEH/Small House development; and the proposed Small House was not incompatible to the adjacent village setting of Ng Uk Tsuen and high-rise residential development in the east and south. The planning permission of application No. A/FSS/191 was extended once for 48 months on 7.5.2014 and remains valid until 7.5.2018.

- 7.2 Details of the applications are attached at **Appendix V** and the location is shown on **Plan A-1**.

## 8. **The Sites and Their Surrounding Areas** (Plans A-1 to A-3 and site photos on **Plan A-4**)

- 8.1 The Sites are:

- (a) in the southern part of Ng Uk Tsuen;
- (b) within the 'VE' of Ng Uk Tsuen;
- (c) vacant and covered mainly with grass and shrubs; and
- (d) accessible via a footpath connecting to Pak Wo Road.

- 8.2 The surrounding areas have the following characteristics:

- (a) to the immediate northwest is the subject site of a Small House application approved under Application No. A/FSS/257 and to the further north is the village proper of Ng Uk Tsuen;
- (b) to the south and east are covered with vegetations, beyond which are residential developments, including Royal Green, Glorious Peak and 8 Royal Green; and

- (c) to the immediate southwest are the subject sites of 2 Small House applications approved under Applications Nos. A/FSS/258 and 191.
- (d) To the west across the existing footpath are two one-storey domestic structures and natural landscape area with tree clusters.

## 9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

## 10. Planning Assessments and Comments from Relevant Government Departments

10.1 The applications have been assessed against the assessment criteria in **Appendix III**. The applications generally meet the Interim Criteria as the footprints of the proposed NTEHs (Small Houses) fall entirely within the ‘VE’ of Ng Uk Tsuen and according to the latest estimate by Planning Department, there is a general shortage of land in meeting the demand for Small House development in the ‘V’ zone of Ng Uk Tsuen. 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 Sites  - Footprints of the proposed Small Houses		✓  ✓	- The Sites fall entirely within the “GB” zone.
2.	Within ‘VE’?  - The Sites  - Footprints of the proposed Small Houses	100%  100%		- The Sites fall entirely within the ‘VE’ of Ng Uk Tsuen.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<u>Land required</u> - Land required to meet Small House demand in Ng Uk Tsuen is about 2.35ha (equivalent to 94 Small House sites).  - The total number of outstanding Small House applications for Ng Uk Tsuen is 9. (i.e. about 0.2ha).

				<ul style="list-style-type: none"> <li>- The latest 10-year Small House demand forecast for Ng Uk Tsuen is 85 (i.e. about 2.125ha).</li> </ul> <p><u>Land available</u></p> <ul style="list-style-type: none"> <li>- Land available to meet 10-year Small House demand within the “V” zone of Ng Uk Tsuen: about 0.113ha (equivalent to 5 Small House sites).</li> </ul>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> <li>- There is a general presumption against development within “GB” zone.</li> <li>- The Director of Agriculture, Fisheries and Conservation (DAFC) has reservation on the applications in view that mass tree felling have been taken place in the Sites and their vicinity between 2009 and 2010 which is undesirable and should not be encouraged from nature point of view.</li> </ul>
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> <li>- The proposed NTEHs (Small Houses) are located to the south of the village proper of Ng Uk Tsuen with residential developments to its east and south.</li> </ul>
6.	Within Water Gathering Ground?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	<ul style="list-style-type: none"> <li>- Director of Fire Services (D of FS) advises that the applicants should be reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.</li> </ul>
9.	Traffic impact?	✓		<ul style="list-style-type: none"> <li>- Commissioner for Transport (C for T) has reservation on the proposed developments as Small House developments should be confined within “V” zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such development, if permitted, will set an undesirable precedent case for similar applications</li> </ul>

				<p>in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <ul style="list-style-type: none"> <li>- Notwithstanding the above, the applications only involve construction of two Small Houses. It is considered that the applications can be tolerated unless it is rejected on other grounds.</li> </ul>
10.	Drainage impact?		✓	<ul style="list-style-type: none"> <li>- Approval condition on the provision of drainage facilities is required.</li> </ul>
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> <li>- The Director of Environmental Protection (DEP) has advised that in view of the small-scale nature of the proposed developments, the applications alone are unlikely to cause major pollution.</li> <li>- Sceptic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person.</li> </ul>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> <li>- The Chief Town Planner, Urban Design and Landscape, Planning Department has no objection on the applications from landscape planning point of view.</li> </ul>
13.	Local objections conveyed by DO(N)?		✓	<ul style="list-style-type: none"> <li>- District Officer (North) (DO(N)) advises that the incumbent North District Council member and the Indigenous Inhabitant Representative (IIR) of Ng Uk Tsuen support the proposal. The IIR of Ng Uk Tsuen is of the view that the villagers have an urgent housing need. The Chairman of Sheung Shui District Rural Committee and the Resident Representative of Ng Uk Tsuen have no comment on the applications.</li> </ul>

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Detailed comments from Government departments are at **Appendix VII**.

- (a) District Lands Officer/North, Lands Department (DLO/N, LandsD);
- (b) Commissioner for Transport (C for T);
- (c) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (d) Director of Environmental Protection (DEP);

- (e) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (f) Director of Agriculture, Fisheries and Conservation (DAFC);
- (g) Director of Fire Services (D of FS);
- (h) Chief Engineer/Development(2), Water Supplies Department (CE/Dev(2), WSD); and
- (i) District Officer (North), Home Affairs Department (DO(N), HAD).

10.3 The following Government departments have no comment on the applications:

- (a) Commissioner of Police (C of P);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (d) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

## **11. Public Comment Received During Statutory Publication Period**

- 11.1 The applications were published for public inspection from 12.1.2018 to 2.2.2018. During the statutory public inspection period, a total of five public comments on each of the applications from three members of the NDC, Green Sense and one individual were received.
- 11.2 Two members of NDC supported the applications on the grounds that the proposed developments can fulfil the housing needs of the villagers (**Appendices VI-1 and VI-2**). One member of the NDC indicated that he has no comment on the application (**Appendix VI-3**).
- 11.3 Green Sense and an individual objected the applications on the grounds that the proposed developments are not in line with the planning intention of the “GB” zone; no information has been provided by the applicants to justify that there is a genuine need to develop private housings on government land; the development of “GB” zone should be for public interest; approval of similar applications results in villa development for profit making and the sprawls of small houses is incompatible with the “GB” zoning intention and character of the area where approval of the case will further degrade the environment. (**Appendices VI-4 and VI-5**).

## **12. Planning Considerations and Assessments**

- 12.1 The planning intention of “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. Although the proposed developments are not in line with the planning intention of the “GB” zone, they generally comply with the Town Planning Board Guidelines for Application for Development within “GB” zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10) in that the Sites are in close proximity to existing villages and in keeping with the surrounding uses, and the proposed developments are to meet the demand from indigenous villagers



- 12.2 DLO/N, LandsD advised that the total number of outstanding Small House application for Ng Uk Tsuen is 9 while the 10-year Small House demand forecast for the same village is 85. According to the latest estimate by PlanD, about 0.113ha (equivalent to 5 Small House sites) of land are available in the “V” zone (**Plan A-2c**) which is insufficient to meet the outstanding Small House applications and the 10-year Small House forecast in the long run.
- 12.3 The Sites are located within the Sheung Shui New Town. The Sites and the footprints of the proposed Small Houses both fall entirely within the ‘VE’ of Ng Uk Tsuen (**Plan A-1**). The Sites are the subject of 2 previous approved applications (Nos. A/FSS/185 and 186) on the grounds that there was a shortage of land available to meet the Small House demand in Ng Uk Tsuen; the proposed Small Houses generally complied with the Interim Criteria for assessing planning application for NTEH/Small House development; and the proposed Small Houses were not incompatible to the adjacent village setting of Ng Uk Tsuen and the residential development in the east and south. Both applications lapsed on 13.2.2018. Applicants have been applying for the Small House grant for the proposed Small House Developments since 2006. Nevertheless, their Small House grants are still processing by DLO/N.
- 12.4 The Sites are currently vacant and covered mainly with grass and shrubs only. In addition, the natural landscape area with tree clusters is to the west of the Sites. Though DAFC has reservation on the applications as he noted that there was mass tree felling between 2009 and 2010 which is considered undesirable and should not be encouraged from nature conservation point of view, CTP/UD&L, PlanD has no objection on the application on the grounds that the proposed use is not entirely incompatible with the surrounding landscape setting and significant adverse impact on landscape resources arising from the proposed development is not anticipated. C for T also has reservation on the proposed developments as Small Houses should be confined within “V” zone as far as possible, but traffic associated with the proposed developments is not expected to be significant. Other relevant Government departments including DEP, CE/Dev(2) of WSD and CE/MN of DSD have no adverse comments on or no objection to the applications.
- 12.5 The proposed Small Houses are located close to the village cluster of Ng Uk Tsuen and are on infill sites sandwiched between other 3 separate Small House sites. 5 similar Small House applications (Nos. A/FSS/188, 190, 191, 257 and 258) had been approved with conditions by the Committee in 2010 and 2017 (**Appendix V**). The proposed developments are not incompatible to the adjacent village setting and the residential developments in the east and south. The approvals of the applications are in line with the Committee’s previous decision. According to the ‘Assessment Criteria for Planning Application’ under the ‘Interim Criteria’ (**Appendix III**), the Committee/Board may have sympathetic consideration to the applications for Small House with previous applications lapsed.
- 12.6 There were five public comments on each application received during the statutory publication period, including two supporting comment, two public comments objecting to the applications and one indicating no comment. Details of the comments are in paragraph 11 above. In this regard, relevant government departments’ comments and planning assessments as stated above in paragraph 12.1 to 12.5 are relevant.

### 13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department has no objection to the applications.
- 13.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 2.3.2022, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are 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 applicants, 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 proposals 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 VIII**.

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

the proposed development is not in-line with the planning intention of the "GB" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

### 14. Decisions Sought

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

**15. Attachments**

<b>Appendices I &amp; II</b>	Application Forms with attachment received on 5.1.2018
<b>Appendix IIa</b>	Letter with clarifications on the status of Small House grant application for the proposed NTEHs, which was received on 9.2.2018
<b>Appendix III</b>	Interim Criteria for Consideration of Application for New Territories (NTEH)/Small House in New Territories
<b>Appendix IV</b>	Previous Applications
<b>Appendix V</b>	Similar Applications
<b>Appendices VI-1 to VI-5</b>	Public Comments
<b>Appendix VII</b>	Comments from Relevant Government departments
<b>Appendix VIII</b>	Advisory Clause
<b>Drawings A-1 &amp; A-2</b>	Layout Plans
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a &amp; A-2b</b>	Site Plans
<b>Plan A-2c</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
<b>Plan A-5</b>	Location Plan (for members only)