

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/798

<u>Applicant</u>	: 鄧亦佃 represented by 鄧玉輝
<u>Site</u>	: Lot 2961 RP (Part) in D.D. 111, Lo Uk Tsuen, Pat Heung, Yuen Long
<u>Site Area</u>	: About 380m 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>	: “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)]
<u>Application</u>	: 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 Wang Toi Shan¹. 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 not the subject of any previous application and is currently used for open storage of vehicles for sale (**Plans A-2a and A-4**).
- 1.2 Layout of the proposed house is at **Drawing A-1** and the major development parameters are as follows:

¹ 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 ²
Total Gross Floor Area	: 195.09 m ²
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 21.11.2018
- (b) Further Information (FI) received on 3.1.2019 (**Appendix Ia**)

2. Justifications from the Applicant

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

- (a) Wang Toi Shan is a recognized village according to the Lands Department and indigenous villagers are entitled to construct NTEHs in the village. There are also similar applications within “R(D)” zone in Yuen Long and Sai Kung approved by the Board.
- (b) The Site is the only land owned by the applicant’s relative and falls within “R(D)” zone which requires planning permission from the Board. The applicant promises to transfer the ownership of the Site immediately once the application is approved.
- (c) 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, fire service installations (FSIs) and landscaping will be provided.
- (d) The surrounding area is mainly occupied by vehicle yards and storage which is not compatible with the zoning. The current application will help to transform the area to the planned residential area.
- (e) To minimize noise impact, measures such as double-glazed window and solid boundary wall 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(s)”. 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 involved in any enforcement case.

6. **Previous Application**

The Site is not the subject of any previous application.

7. **Similar Application**

7.1 There is one similar application for house (NTEH - Small House) (Application No. A/YL-PH/540), which partly falls within the same “R(D)” zone and partly within the adjacent “Village Type Development” (“V”) zone, approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board. Details of the application is at **Appendix III** and its location is shown on **Plan A-1**.

7.2 Application No. A/YL-PH/540 was approved with conditions by the Committee on 11.5.2007 mainly for the reasons that the proposed development generally complies with the Interim Criteria in that it fell within ‘Village Environ’ (‘VE’) of Wang Toi Shan and 77% of the NTEH footprint fell within “V” zone; not incompatible with the surrounding areas; and no adverse comment from relevant departments.

8. **The Site and Its Surrounding Area (Plans A-1 to 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 nature with residential dwellings/structures, open storage yards, workshops, a film studio and a plant nursery, with the following characteristics:

- (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;

- (b) to its east within the “R(D)” zone are mainly open storage/storage yards, car servicing, a canteen and a vehicle repair workshop; 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? - Footprint of the proposed Small House - Application site	--	100%	- The Site and footprint of the proposed Small House fall entirely within “R(D)” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - Application site	--	100%	- DLO/YL, LandsD has advised that the Site does not fall within any ‘VE’ of any recognized village.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang (the Villages): about 43.5ha (equivalent to about 1,740 Small House sites). The outstanding Small House applications for the Villages are 80 while the 10-year Small House demand forecast for the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		Villages is about 1,660. - Land available to meet the Small House demand within the “V” zone of the Villages: about 32.2ha (equivalent to about 1,287 Small House sites) (Plans A-2b and 2c).
4.	In line with the planning intention of “R(D)” zone?	✓		
5.	Compatible with surrounding area/ development?	✓		- The Site is located in an area predominantly rural in nature with residential dwellings/structures on the north within the “V” zone.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	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.
9.	Local objections received?		✓	- The District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) has no comment on the application. Public comments received during the statutory publication period are set out in paragraph 11 below.
10.	Others		✓	- Detailed comments of Government departments are at Appendix IV .

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 IV**.

- (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 Agricultural, 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 the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), West Development Office, Civil Engineering and Development Department (PM(W), CEDD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 30.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.12.2018, a total of 2 public comments on the application from individuals were received (**Appendices V-1 and V-2**). The two commenters object the application mainly on the grounds that the proposed house development is not within “V” zone and is not a re-development of pre-existing building. It is unacceptable that the “Ding” right be extended to sites zoned to serve the rest of the population; and Small House development is inequitable and inefficient land use.

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 80. As provided by the Indigenous Inhabitant Representatives of the villages, the 10-year Small House demand forecast for these villages is about 1,660. Based on the latest estimate by PlanD, about 32.2ha (or equivalent to about 1,287 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 (**Plans A-2b and 2c**).
- 12.3 The application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House does not fall within the ‘VE’ of any recognized village. According to the Interim Criteria, development of NTEH/Small House with more than 50% of the footprint outside both the ‘VE’ and the “V” zone would normally not be approved except under very exceptional circumstances. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone for a 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 The government departments consulted, including C for T and D of FS, have no adverse comment on or no objection to the application.
- 12.5 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 Interim Criteria as it fell entirely within the ‘VE’ of Wang Toi Shan and about 77% of the proposed NTEH footprint falls within the “V” zone (**Plan A-1**). It is different from the current application with the Site and the footprint of the proposed Small House entirely falling outside “V” zone and ‘VE’.
- 12.6 Two public comments were received during the public inspection period raising objection mainly on grounds of extension of Small House development in “R(D)” zone. In this regard, the planning considerations and assessments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, Planning Department does not support the application for the following reason:

the application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House falls entirely outside the ‘VE’ of any recognized village and the “V” zone. Land is still available within the “V” zone of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang, where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone for a 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 18.1.2023, 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**.

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

Appendix I	Application Form with Planning Statement and Plans Received on 21.11.2018
Appendix Ia	Further Information Received on 3.1.2019 in Response to Departmental Comments
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories
Appendix III	Similar Application for Proposed House (NTEH - Small House) within the Same "R(D)" Zone on the Pat Heung OZP

Appendix IV	Detailed Comments from Relevant Government Departments
Appendices V-1 and V-2	Public Comments Received during the Statutory Publication Period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	EVA Plan
Drawing A-3	FSIs Proposal
Plan A-1	Location Plan with Similar Application
Plan A-2a	Site Plan
Plans A-2b and 2c	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
JANUARY 2019**