

RNTPC Paper No. A/ST/954
For Consideration by the
Rural and New Town
Planning Committee
On 15.6.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/954

- Applicant** : i villas Limited
- Site** : Lot 429 in D.D. 177, Lok Lo Ha Village, Sha Tin
- Site Area** : 505.667m² (about)
- Lease** : Building lot held under New Grant No. 8800
(i) to expired on 30.6.2047
(ii) restricted to one residence of not more than 2 storeys in height and roofed-over area not more than 25%;
(iii) building height shall not exceed 25 feet and no storey shall be less than 10 feet in height
- Plan** : Draft Sha Tin Outline Zoning Plan (OZP) No. S/ST/33 at the time of submission

Approved Sha Tin OZP No. S/ST/34 currently in force
- Zonings** : “Village Type Development” (“V”)
- total development or redevelopment shall not be in excess of a maximum building height of 3 storeys (8.23m) or the height of the existing building, whichever is the greater
- Application** : Proposed Single House Development

1. The Proposal

- 1.1 The applicant seeks planning permission for a single house development at the application site (the Site) (**Plans A-1 and A-2**). According to the Notes of the OZP, ‘House (not elsewhere specified)’ under “V” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of a previous application (No. A/ST/767) submitted by the same applicant for development of two houses (see paragraph 4), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 6.12.2011 (the approved scheme).
- 1.3 In order to comply with the existing lease conditions, the applicant submitted a revised proposal for a single house development with a gross floor area of

243.7m² and a building height of 2-storey (7.62m). A comparison of development parameters of the approved scheme and the current scheme is set out below:

	Approved Scheme A/ST/767 (A)	Current Application A/ST/954 (B)	Difference (B) – (A)
Site Area:	505.7m ²	505.667m ²	-0.033 (-0.007%)
Total GFA:	252.76m ²	243.7m ²	-9.06 (-3.6%)
Plot Ratio:	0.5	0.482	-0.018 (-3.6%)
Site Coverage:	25%	24.0955%	-0.9045 (-3.6%)
No. of Block:	2	1	-1
No. of Storey:	2 + 1 cockloft	2	-1 (-33.3%)
Max Building Height:	7.55m	7.62m	+0.07m (+0.93%)

- 1.4 In support of the application, the applicant has submitted the application form dated 16.4.2018 with attachments at **Appendix I**. The lot index plan, pedestrian access plan, floor plans, section and elevation plans of the development under application submitted by the applicant are shown in **Drawings A-1 to A-8** respectively.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the subject lot was granted on 12.11.1958 by an in-situ land exchange under New Grant No. 8800 (“the Lease”) with a site area of 5,443 square feet (505.667m²). The Lease stipulates that the development on the Lot is restricted to one residence of not more than 2 storeys and 25 feet (7.62m) in height; and that the roofed over area shall not be more than 25%. Following the Judgment of the Court of First Instance dated 18.12.2017 [HCA 1883/2014], the current application is to develop one residence with development parameters in compliance with the current lease conditions.
- (b) a development proposal for the proposed 2 houses having a total GFA of not more than 252.76m² under Application No. A/ST/767 was approved with conditions by the Board on 6.12.2011 and the validity date of the planning permission was extended to 6.12.2018 by the Board on 26.11.2015 under Application No. A/ST/767-1; and
- (c) subject to the approval given by the Board, the necessary submissions to the relevant Government departments, including Planning Department, Buildings Department, Fire Services Department, Geotechnical Engineering Office/Civil Engineering and Development Department, Environmental Protection Department and Drainage Services Department, will be made for their consideration and approvals.

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. Previous Application

The Site was the subject of a previous s.16 planning application (No. A/ST/767) for development of two houses (**Plan A-2**) submitted by the same applicant. The application was approved with conditions by the Committee on 6.12.2011 on the consideration that the proposed development was not incompatible with the surrounding village environment; there was no significant landscape impact arising from the proposed development; and the Site is governed under New Grant which has building status under lease. A s.16A application (No. A/ST/767-1) for extension of time for commencement of the approved scheme to 6.12.2018 was approved by the Director of Planning on 4.12.2015 under the delegated authority from the Board.

5. Similar Application

There is one similar application (No. A/ST/769) for development of two houses within the same “V” zone adjacent to the Site. It was rejected by the Committee on 18.8.2012 on the major grounds that the concerned site was an agricultural lot without any building entitlement; the proposed development would have adverse landscape impact on the surrounding areas; and there was no strong justification in the submission for a departure from such planning intention of “V” zone. The location of the similar application is shown on **Plan A-2**.

6. The Site and its Surrounding Areas (Plans A-1 to A-3c)

6.1 The Site is:

- (a) located entirely within the “V” zone of Lok Lo Ha Village;
- (b) a formed platform built on slope and is largely vacant except a temporary structure at the south-eastern part; and
- (c) not accessible by vehicles.

6.2 The surrounding areas have the following characteristics:

- (a) it is predominantly rural in character with some village houses in the vicinity; and
- (b) the village proper of Lok Lo Ha is located to the east of the Site. To the south are vegetated slopes with an existing footpath connects to Lok Lam Road. To the north is a stream running in the northwest to southeast direction.

7. Planning Intention

The planning intention of the “V” zone in Lok Lo Ha is to designate both existing recognized villages and areas of land considered suitable for village expansion. 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. Comments from the Relevant Government Departments

8.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

8.1.1 Comments of the District Lands Officer/Shu Tin, Lands Department (DLO/ST, LandsD):

- (a) he has no objection in principle to the application subject to the comments below;
- (b) the Lot is governed under New Grant No. 8800 (“the New Grant”). The site area of the Lot is 5,443 square feet (i.e. 505.667m²) with building and garden status. Under the New Grant, the Lot is restricted to one residence of not more than two storeys in height and not more than 25% roofed-over area of the Lot. The height of the building shall not exceed 25 feet (i.e. 7.62m) and no storey shall be less than 10 feet (i.e. 3.05m). The ground floor of any new building shall be at such a level above the adjoining ground to ensure proper drainage and shall in every case at least 6 inches (i.e. 0.15m) above such adjoining ground;
- (c) the following aspects of the proposal are in conflict with the New Grant:
 - (i) Roofed-over Area
the proposed underground ancillary structures including FS & sprinkler pump room, sprinkler tank and FS tank should be accountable for roofed-over area. Thus, the total roofed-over area of the building/structure would exceed the maximum of 25% under the New Grant; and
 - (ii) Site Access
as shown on the access plan in the present application, a track of not less than 1.1m wide leading from the subject site to Lok Lam Road is to be provided. The proposed access falls on unleased and unallocated government land. Under the New Grant, owner of the Lot is not given any right of way/access over the concerned Government land.
- (d) if the subject planning application is approved by the Board, the

lot owner has to apply to LandsD for a lease modification to implement the proposal. However, there is no guarantee that the application will be approved. Such application, if received by LandsD, will be considered by LandsD acting in its capacity as the landlord at its sole discretion and any approval would be subject to such terms and conditions including, amongst others, payment of land premium and administrative fee as may be imposed by LandsD. Furthermore, detailed design of the development will be further scrutinized at the building plan stage and it shall not be construed that the schematic designs (other than those aspects mentioned above) as presently proposed in the application must be accepted under lease; and

- (e) the number of outstanding Small House application is 21 and the estimated 10-year Small House demand is 110 for Lok Lo Ha Village. The estimate figure is provided by the villagers of Lok Lo Ha Village.

Landscape

8.1.2 Comments from the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) she has no objection from the landscape planning perspective;
- (b) comparing the aerial photo of 2011 (under previous application) and the latest photo of 2017, there is no significant change in the rural village landscape character where the Site is located. The proposed development is considered not incompatible with the surrounding landscape character. According to latest site record photo dated 2.4.2018, the Site is hard paved and no landscape resource is found within the Site. Adverse landscape impact arising from the proposed development is not expected. According to submitted building layout, a landscaped garden will be provided at the southern side of the Site which will have environmental enhancement to the adjacent areas; and
- (c) should the Board approve the application, she would recommend including the submission and implementation of a landscape proposal as approval condition in the permission.

Building Matters

8.1.3 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW of BD):

- (a) as the Site does not abut a “Specified Street” of not less than 4.5m wide, the development intensity (i.e. plot ratio and site coverage) should be subject to determination under Building (Planning) Regulations 19(3) upon formal submission of building plan. In making such a determination, factors relating to safety, traffic, service access and drainage capacity will be taken into

consideration together with the comments from relevant Government departments; and

- (b) the proposal should be provided with Emergency Vehicular Access, Site Access and Means of Escape to street, and may need to be resolved with Fire Services Department and Lands Department.

Geotechnical

- 8.1.4 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

if the applicant wishes to proceed with the proposed development, it is required to submit a Geotechnical Planning Review Report (GPRR) to assess the geotechnical feasibility of the proposed development. The GEO Advice Note which sets out the essential contents of a GPRR is attached at **Appendix II**. There is no objection to the application subject to the following condition being imposed:

“the submission of a Geotechnical Planning Review Report and implementation of the necessary geotechnical remedial works identified therein, in respect of the slopes adjacent to the application site to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.”

Fire Safety

- 8.1.5 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans. The arrangement of emergency vehicular access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administrated by the Buildings Department.

Water Supply

- 8.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) :

- (a) he has no objection to the application;
- (b) the existing water mains falls within the Site and will be affected. The developer shall bear the cost of any necessary diversion works affected by the proposed development; and

- (c) in case it is not feasible to divert the affected water mains, a Waterworks Reserve with 1.5m measuring from the centreline of the affected water mains shown on **Plan A-2** shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purposes.

Drainage

8.1.7 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application;
- (b) there is existing public sewer available at Lok Lo Ha Village, with existing manhole at about 30m away. For access to the existing public sewer, it would likely cross a private lot (No. 304) and consent may need to be obtained from this private lot for connection to public sewer by the applicant; and
- (c) if septic tank and soakaway system would be adopted for collection, treatment and disposal of sewage, the requirements of the Practice Note for Professional Person PN 5/93 shall be followed.

8.1.8 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) he has no comment from drainage maintenance point of view; and
- (b) public sewerage connection is available at Lok Lo Ha Village for connection to the Site. Relevant drainage record plan is attached at **Drawing A-9**. It should be noted that information shown on the record drawing is subject to verification on site and no guarantee can be given that this is a complete record. The applicant and/or his AP should verify the actual site conditions by sub-surface explorations. In the event that the lot owner/AP requires to construct a new sewerage connection under the development, Form HPB1 should be submitted to his department. Moreover, the lot owner/AP shall obtain the consent of relevant owners and/or maintenance parties when constructing connecting to the drainage systems outside the lot, no matter the drainage system is on Government or private land.

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

- (a) Commissioner for Transport;
- (b) District Officer/Shu Tin, Home Affairs Department;
- (c) Director of Leisure and Cultural Services;
- (d) Director of Electrical and Mechanical Services;
- (e) Director of Agriculture, Fisheries and Conservation;

- (f) Chief Highways Engineer/New Territories East, Highways Department; and
- (g) Project Manager/North, Civil Engineering and Development Department.

9. Public Comments Received During Statutory Publication Period

9.1 On 24.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period 134 public comments were received, including the Village Representative of Lok Lo Ha Village, Sha Tin Rural Committee, villagers of Lok Lo Ha Village and private individuals. Samples of the public comments on the application are at **Appendix III**. They object to the application mainly on the following grounds:

- (a) it will adversely affect the ‘fung shui’ of the Lok Lo Ha Village and the proposed house is not compatible with the surroundings;;
- (b) the proposed development will induce adverse landscape and air ventilation impacts and slope safety problem. The existing footpath is narrow and the drainage capacity cannot cater for the proposed development;
- (c) the proposed building works will have negative impact on the structure of the existing older village houses and the river stream.
- (d) the applicant has no connection to Lok Lo Ha Village. The proposal will reduce the prospects of other indigenous villagers in securing a site for their small house development.
- (e) there are inadequate supporting facilities such as car parks and leisure facilities. The increase in population arising from the proposed development will adversely affect the living quality of the villagers; and
- (f) the applicant has not provided detailed information of the proposed house in the application. It is suspected that the Site may be used for columbarium development.

10. Planning Considerations and Assessment

10.1 The application is for a single house development at the Site with building status under lease. According to DLO/ST, LandsD, the subject building lot, with a site area of 5,443 square feet (which is equivalent to 505.667m²), is restricted to 2 storeys of 25 feet in height and roofed-over area of not more than 25%. DLO/ST, LandsD has no objection in principle to the application.

10.2 The Site falls entirely within the “V” zone of Lok Lo Ha which is primarily for the development of Small Houses by indigenous villagers. According to DLO/ST, LandsD, the total number of outstanding Small House applications for Lok Lo Ha Village is 21 while the 10-year Small House demand forecast for the village is 110. Based on the latest estimate by the PlanD, about 1.38 ha of land (or equivalent to about 55 Small House sites) are available within the “V” zone of Lok Lo Ha Village. Although the land available for Small House development

cannot fully meet the future Small House demand for about 3.275 ha of land (equivalent to about 131 Small House sites), there is sufficient land available within “V” zone to meet the outstanding Small House applications.

- 10.3 The Site is located on a platform to the southwest of the village proper of Lok Lo Ha with some existing village houses to the north, east and southeast. The development scale of the house, i.e. 2 storeys (7.62m), does not contravene the restrictions under the OZP which specifies that no new development shall exceed a maximum building height of 3 storeys (8.23m). The proposed building bulk and height of the development is considered not incompatible with the surrounding village environment and significant landscape impact arising from the proposed development is unlikely. The proposed development is not envisaged to impose other significant impacts on the surrounding area nor overstrain the capacity of existing and planned infrastructure. Relevant Government departments consulted, including TD, DSD, WSD and EPD, have no adverse comment on or no objection to the application.
- 10.4 The Site was the subject of a previous s.16 planning application (No. A/ST/767) for development of two houses (**Plan A-2**) submitted by the same applicant which was approved with conditions by the Committee on 6.12.2011 on the consideration that the proposed development was not incompatible with the surrounding; there was no significant landscape impact to the surroundings; and the Site has building status under lease. There is one similar application (No. A/ST/769) for development of two houses within the same “V” zone adjacent to the Site was rejected by the Committee on 18.8.2012 on the major grounds of the concerned site without building entitlement; adverse landscape impact; and no strong justification for a departure from such planning intention.
- 10.5 There are adverse public comments on the application on the grounds of incompatibility with the surroundings; adverse landscape impact; slope safety problem; insufficient drainage capacity; inadequate supporting facilities; negative impact on the existing old village houses; and reducing the prospects for Small House development. In this regard, departmental comments on geotechnical, drainage, sewerage, and landscape impacts and the planning assessment above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 above and having taken into account the public comments mentioned in paragraph 9 above, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.6.2022, 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 are also suggested for Members’ reference:

Approval conditions

- (a) the submission and implementation of landscaping proposal to the satisfaction of the Director of Planning or of the Town Planning Board;

- (b) the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board;
- (c) the submission of a Geotechnical Planning Review Report and implementation of the necessary geotechnical remedial works identified therein, in respect of the slopes adjacent to the application site to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board; and
- (d) the design and provision of sewage treatment facilities/sewer connections to the application site to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.

Advisory Clauses

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

11.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "V" zone which is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong justification in the submission for a departure from such planning intention; and
- (b) the approval of the application would set an undesirable precedent for similar applications within the "V" zone. The cumulative effect of approving such similar applications would reduce the land available for Small House development

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 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 shall expire.
- 12.3 Alternatively, should the Committee decide to reject the application, Member are invited to advise what reasons for rejection should be given to the applicant.

13. Attachments

Appendix I	Application form dated 16.4.2018
Appendix II	GEO Advice Note
Appendix III	Sample of Public Comments
Appendix IV	Recommended Advisory Clauses
Drawings A-1 to A-8	Lot Index Plan, Pedestrian Access Plan, Floor Plans, Section and Elevation Plans
Drawing A-9	Drainage Record Plan from DSD
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3c	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**