

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/956

<u>Applicant</u>	Mr. LAU Ka Fung Adrian represented by Mr. LAU Chee Sing
<u>Site</u>	Government Land in D.D. 177, Lok Lo Ha, Fo Tan, Sha Tin, N.T.
<u>Site Area</u>	56.8m ² (about)
<u>Land Status</u>	Government Land
<u>Plan</u>	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
<u>Zonings</u>	“Village Type Development” (“V”) (about 70% of the Site) and “Green Belt” (“GB”) (about 30% of the Site)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 On 27.4.2018, the applicant, an indigenous villager of Lok Lo Ha Village¹, sought planning permission to build a NTEH (Small House) on the application site (the Site). The Site falls within an area zoned “V” (about 70%) and “GB” (about 30%) on the draft Sha Tin OZP No. S/ST/33 (**Plans A-1 and A-2a**). According to the Notes of the OZP, while ‘House (NTEH only)’ within “V” zone is a use always permitted, ‘House’ use within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 An indicative layout of the proposed Small House is shown on **Drawing A-2**. Details of the proposed Small House are as follows:

Total floor area	:	170.4 m ²
No. of storeys	:	3
Building height	:	8.23 m
Roofed-over area	:	56.8 m ²

¹ As advised by District Lands Officer/Shia Tin, Lands Department (DLO/ST, LandsD), the applicant is an indigenous villager of Lok Lo Ha Village (pre-1898 recognised village) as confirmed by the Statutory Declaration made by Indigenous Inhabitant Representative (IIR) of Lok Lo Ha Village.

- 1.3 The Site is accessible via a footpath branching off Tsun King Road.
- 1.4 In support of the application, the applicant submitted an application form dated 27.4.2018 with attachments (**Appendix I**).

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 applicant is an indigenous villager of Lok Lo Ha Village and has submitted an application for construction of Small House to Sha Tin District Lands Office in December 2013;
- (b) the proposed Small House falls within area zoned “V” and “GB” and is wholly within the village environ (“VE”) of Lok Lo Ha Village; and
- (c) there is no other land available to the applicant.

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

As the Site involves 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. 31A) are not applicable to the application.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/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. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. 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’ are relevant to the application. The relevant assessment criteria are summarized below:

- (a) there is a general presumption against development in the “GB” zone;
- (b) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. 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 application 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 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;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

6. **Previous Application**

There is no previous application for the Site.

7. **Similar Application**

There is no similar application for Small House development within the same “GB” zone in the vicinity of the Site on the Sha Tin OZP since the first promulgation of the Interim Criteria on 24.11.2000.

8. **The Site and Its Surrounding Areas (Plans A-1, A-2a and A-2b, aerial photo on Plan A-3 and site photos on Plan A-4)**

8.1 The Site is:

- (a) located at the northern fringe of the Lok Lo Ha “V” zone.
- (b) a vacant land within a wooded slope, and some trees and shrubs are found in the vicinity of the Site (**Plan A-4**); and
- (c) accessible via a footpath branching off Tsun King Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north, west and southwest are densely vegetated woodland;
- (b) to the east, northeast and south are village house developments and temporary structures of Lok Lo Ha Village and a footpath connected to Tsun King Road; and
- (c) to the further west is a water stream and vegetated woodland.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “V” zone is to designate both the existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for the 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.

10. 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	70%		- The remaining portion of the proposed Small House footprint (30%) is within the “GB” zone. - The remaining portion of the Site (30%) is within the “GB” zone.
2.	Within village ‘environs’ (‘VE’)? - Footprint of the proposed Small House - Application site	100%		- According to the information provided by DLO/ST, LandsD, the Site and the footprint fall entirely within the ‘VE’ of Lok Lo Ha Village (Plan A-1). - DLO/ST, LandsD advised that the applicant is an indigenous villager of Lok Lo Ha Village.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand in Lok Lo Ha Village: about 3.275ha (equivalent to 131 Small House sites). The outstanding Small House applications are 21 while the 10-year Small House demand forecast for the same village is 110. - Land available to meet Small House demand within the “V” zone of the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				village concerned: about 1.38 ha (or equivalent to 55 Small House sites).
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> - There is a general presumption against development within the “GB” zone. - Considering that some trees are found at/in the vicinity of the Site, the Director of Agriculture, Fisheries and Conservation (DAFC) concerns that the development of Small House would require extensive felling/trimming of trees in the “GB” zone.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The surrounding areas are predominated by vegetated woodland and village houses.
6.	Within Water Gathering Grounds (WGG)?		✓	<ul style="list-style-type: none"> - The proposed Small House is outside WGG. Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	<ul style="list-style-type: none"> - Chief Highway Engineer/New Territories East, Highways Department (CE/NTE, HyD) and Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD) have no comment on the application.
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> - Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.
9.	Traffic impact?		✓	<ul style="list-style-type: none"> - Commissioner for Transport (C for T) has no comment on the application from traffic engineering point of view.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage and sewerage impact?		✓	<ul style="list-style-type: none"> - Chief Engineer/Mainland South, Drainage Services Department (CE/MN, DSD) has no comment on the application from public drainage point of view. Public sewerage system is available at Lok Lo Ha Village for connection to the Site. The relevant part-print of the drainage record plan is at Drawing A-3. - According to Director of Environmental Protection (DEP), there is an existing sewerage at Lok Lo Ha Village and the Site is about 25m away from the public sewer manhole. The public sewer is available for connection by the applicant and the capacity is sufficient.
11.	Landscape impact?	✓		<ul style="list-style-type: none"> - Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD) raised objection to the application from landscape planning perspective as the Site is situated in a vacant land within a wooded slope. The footprint of the proposed Small House and the slope regrading works for site formation may have conflict with nearby existing trees canopies and tree protection zones, thus pruning or felling of trees outside site may be required. There is no impact assessment on the affected trees in the application. - CTP/UD&L, PlanD also has grave concern that approval of the application will set an undesirable precedent to encourage similar applications to extend village type development into “GB” zone. The piecemeal developments will also have cumulative adverse impact on the landscape resources which lead to gradual and irreversible degradation of green belt/woodland in the area. Moreover, there is no similar

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				approved Small House in the “GB” zone and land is still available in the “V” zone for the proposed use.
12.	Geotechnical impact?	✓		<p>- The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advised that the Site is overlooked by steep natural hillside and meets the alert criteria for a natural terrain hazard study (NTHS). The GEO would normally tender in-principle objection to the proposed small house application unless the applicant is prepared to undertake a NTHS. The requirement of a NTHS could incur significant cost implication and render the development not economically viable. Therefore, the applicant may consider looking for an alternative site if practicable.</p> <p>- The applicant is required to submit a Geotechnical Planning Review Report (GPRR) in support of the application. Other essential contents of a GPRR are given in the attached GEO Advice Note (Appendix IV).</p>
13.	Local objections conveyed by DO?		✓	- District Officer (Sha Tin), Home Affairs Department (DO(ST), HAD) has no comment on the application.

10.2 Comments from the following Government departments have been incorporated in the above paragraph. Other detailed comments from Government departments are at **Appendix III**.

- (a) District Lands Officer/Shia Tin, Lands Department;
- (b) Director of Fire Services;
- (c) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (d) Director of Agriculture, Fisheries and Conservation;
- (e) Chief Engineer/Mainland South, Drainage Services Department;
- (f) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (g) Director of Environmental Protection; and

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

- (a) Commissioner for Transport (C for T);
- (b) District Officer/Shu Tin, Home Affairs Department (DO/ST, HAD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services;
- (e) Chief Highway Engineer/New Territories East, Highways Department; and
- (f) Project Manager/North, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 4.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, five public comments from the Indigenous Inhabitant Representative and villagers of Lok Lo Ha Village, green groups and a member of the general public were received. They object to the application mainly on the grounds that the proposed Small House development would cause adverse sewerage impact and result in loss of green space; the proposal is not in line with the planning intention of the “GB” zone; and the approval of the application would set an undesirable precedent. Details of the public comments are at **Appendix V**.

12. Planning Considerations and Assessments

- 12.1 The Site is a piece of Government land which falls within an area zoned “V” (about 70%) and “GB” (about 30%) on the OZP. The proposed Small House 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 “GB” zone.
- 12.2 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 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. The footprint of the proposed Small House falls entirely within the ‘VE’ of the concerned village. DLO/ST, LandsD has no objection to the application.
- 12.3 The Site is located at the northern fringe of the Lok Lo Ha “V” zone and some trees and shrubs are found in the vicinity of the Site (**Plans A-2a and A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with village house developments and temporary structures to the east, northeast and south (**Plans A-2a and A-3**). In view of the lush vegetation cover including woodland, shrubland and grassland in the vicinity, the quality of the landscape resources in the surrounding area is high. CTP/UD&L of PlanD objects to the application from landscape planning point of view as the footprint of the proposed Small House and the slope regrading works for site formation may have conflict with nearby existing trees canopies and tree protection zones, thus pruning or felling of trees outside site may be required. She also has grave concern that the piecemeal developments will have cumulative adverse impact on the landscape resources which lead to gradual and irreversible degradation of green belt/woodland in the area. Approval of the application will

set an undesirable precedent to encourage similar applications to extend village type development into “GB” zone. DAFC also concerns that the proposed Small House would require extensive felling/ trimming of trees in the “GB” zone. In this regard, the proposed development does not comply with the TPB PG-No. 10 in that the proposed development would involve felling of trees and affect the existing natural landscape in the surrounding areas.

- 12.4 H(GEO), CEDD advised that the Site is overlooked by steep natural hillside and meets the alert criteria for a NTHS. The GEO would normally tender in-principle objection to the proposed small house application unless the applicant is prepared to undertake a NTHS. In view that the requirement of a NTHS could incur significant cost implication and render the development not economically viable, the applicant may consider looking for an alternative site if practicable. Other Government departments including DEP, C for T, CE/C of WSD, CE/MS of DSD and D of FS have no objection to or adverse comment on the application.
- 12.5 Whilst the Site is entirely within the ‘VE’ of Lok Lo Ha Village (**Plan A-1**), the application does not comply with the Interim Criteria (**Appendix II**) in that it would involve felling of trees, clearance of vegetation and would induce adverse landscape impacts on the surrounding areas. While land available within the “V” zone is insufficient to fully meet the future Small House demand, it is noted that land (about 1.38 ha or equivalent to about 55 Small House sites) is still available within the “V” zone for Small House development and capable to meet the outstanding Small House applications (**Plan A-2b**). 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 more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.6 Regarding the public comments objecting to the application on the grounds of contravening the planning intention of “GB” zone, causing adverse sewerage impact and setting an undesirable precedent, the comments of Government departments and planning assessment above 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, the PlanD does not support the application for the following reasons:
- (a) 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 “GB” zone. There is no strong planning justification in the submission for a departure from the planning intention;

- (b) the proposed development does not comply with the Interim Criteria for ‘Consideration of Application for New Territories Exempted House/Small House in the New Territories’ in that the proposed development would cause adverse landscape and geotechnical impacts on the surrounding areas;
- (c) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that the proposed development and the associated site formation works would involve tree felling, clearance of vegetation and affect the existing natural landscape in the surrounding areas;
- (d) land is still available within the “V” zone of Lok Lo Ha 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 infrastructure and services; and
- (e) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

13.2 Alternatively, 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 and advisory clauses are also suggested for Members’ reference:

Approval condition

the submission of a Geotechnical Planning Review Report and implementation of the necessary mitigation measures identified therein to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department 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 permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses 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 rejection should be given to the applicant.

15. Attachments

Appendix I	Application form and attachments received on 27.4.2018
Appendix II	Interim criteria
Appendix III	Detailed comments from relevant government departments
Appendix IV	GEO advice note
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawings A-1 to A-2	Drawings submitted by the applicant
Drawings A-3	Drainage record plan from DSD
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
JUNE 2018**