

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/ST/958

<u>Applicant</u>	Mr. LAU Yau Hing
<u>Site</u>	Lot 620 s.A in D.D.176, Wo Liu Hang, Sha Tin, New Territories
<u>Site Area</u>	101.1m ² (about)
<u>Lease</u>	Agricultural Lot under New Grant No. 6982
<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 79% of the Site) and “Green Belt” (“GB”) (about 21% of the Site)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 On 25.5.2018, the applicant, claiming as an indigenous villager of Wo Liu Hang 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 79%) and “GB” (about 21%) on the approved Sha Tin OZP No. S/ST/34 (**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 with septic tank is shown on **Drawing A-2**. Details of the proposed Small House are as follows:
- | | | |
|------------------|---|----------------------|
| Total floor area | : | 195.09m ² |
| No. of storeys | : | 3 |
| Building height | : | 8.23 m |
| Roofed-over area | : | 65.03 m ² |
- 1.3 In support of the application, the applicant submitted an application form dated 25.5.2018 with attachments (**Appendix I**).

¹ As advised by DLO/ST, LandsD, the applicant’s indigenous villager status and eligibility for Small House grant has yet to be confirmed since no statutory declarations from both the Indigenous Inhabitant Representative and the applicant confirming the applicant’s indigenous villager status are received so far.

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 Wo Liu Hang Village and has submitted an application for construction of Small House to District Lands Office;
- (b) although the Site is located within the “V” and “GB” zone, there is no agricultural activity in the surroundings. The applicant has utilized his own private land for Small House development;
- (c) no major site formation works and tree felling are required. Septic tank will be provided for the proposed development. No adverse landscape, visual and environmental impacts and topographic constraints are anticipated.

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. **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 Applications**

There are five similar applications (Nos. A/ST/659, A/ST/660, A/ST/661, A/ST/662 and A/ST/663) for Small House development in the vicinity of the Site and within the same "GB" zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Appendix III**). All applications were rejected by the Board in 2008 upon review mainly on the grounds that the proposed development involving extensive clearance of existing natural vegetation did not comply with the Interim Criteria; the proposed development was not in line with the planning intention of the "GB" zone; and there was insufficient information in the submission to demonstrate that the proposed development would not cause any adverse geotechnical, traffic and landscape impact on the area. The locations of the similar applications are shown on **Plans A-1 and A-2a**.

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 north-eastern fringe of the Wo Liu Hang "V" zone.
- (b) situated on a slope, partly covered with wild grass and partly used for active agricultural activities (**Plan A-4**); and
- (c) accessible via a footpath and private carpark branching off a cul-de-sac of Wo Liu Hang Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and northeast are densely vegetated woodland;
- (b) to the south and southeast are vacant land partly covered with wild grass and partly used for active agricultural activities.

- (c) to southwest and west are an existing water stream and a piece of hard-paved vacant land currently used as private carpark; and
- (d) to the further west, southwest and south are the cluster of village houses, domestic structures, columbarium development and medium to high rise industrial buildings in Fo Tan.

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	85%		- The remaining portion of the proposed Small House footprint (15%) is within the “GB” zone. - The remaining portion of the Site (21%) 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 Wo Liu Hang Village and Pat Tsz Wo Resite Area (Plan A-1). - DLO/ST, LandsD advised that the applicant’s indigenous villager status and eligibility for Small House grant has yet to be confirmed since no statutory declarations from both the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				indigenous inhabitant representative and the applicant confirming the applicant's indigenous villager status are received so far.
3.	Sufficient land in "V" zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> - Land required to meet Small House demand in Wo Liu Hang Village and Pat Tsz Wo Resite Area: about 4.15ha (equivalent to 166 Small House sites). The outstanding Small House applications for Wo Liu Hang Village are 11 while the 10-year Small House demand forecast for the same village is 120. For Pat Tsz Wo Resite Area, the outstanding application is 0 while the 10-year Small House demand forecast is 35. - Land available to meet Small House demand within the "V" zone of the villages concerned: about 1.13ha (or equivalent to 45 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 there are agricultural activities in the Site and agricultural infrastructure such as water supply and road access is available, the Director of Agriculture, Fisheries and Conservation (DAFC) has reservation on the application from agricultural point of view. - DAFC also pointed out that suspected unauthorised tree felling was observed at/in vicinity of the Site early this year. The Board should consider whether this application would constitute "destroy first, build later".
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> - The surrounding areas are predominated by woodland, village houses, domestic structures and industrial buildings.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
6.	Within Water Gathering Grounds (WGG)?		✓	- 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?		✓	- 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)?		✓	- 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?		✓	- Commissioner for Transport (C for T) has no comment on the application from traffic engineering point of view.
10.	Drainage and sewerage impact?		✓	- Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no comment on the application from public drainage point of view. - In view of the small scale of the proposed development and the availability of public sewers to serve the proposed developments, the application alone is unlikely to cause major pollution. Director of Environmental Protection (DEP) has no objection to the application. - DEP advised that there is an existing sewerage at Wo Liu Hang Village and the Site is about 70m away from the public sewer manhole. The public

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				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) has reservation on the application from landscape planning perspective. The Site is currently vacant and partly covered with wild grasses (Plans A-3a and A-4). It is noted that surrounding vegetation of the Site has been almost cleared up as compared to the aerial photos of 2016 and 2017 (Plan A-3b). - CTP/UD&L, PlanD also has grave concern that approval of this application will set an undesirable precedent to encourage similar application to extend the village into adjacent “GB” zone. The cumulative effect of piecemeal developments will cause adverse impact on the landscape resource and character of the area and resulting in gradual degradation and irreversible change to the green belt.
12.	Geotechnical impact?	✓		<ul style="list-style-type: none"> - 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.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				- 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 V).
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 IV**.

- (a) District Lands Officer/Shan 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) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (f) Director of Environmental Protection; and

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

- (a) Commissioner for Transport;
- (b) District Officer/Shan Tin, Home Affairs Department;
- (c) Chief Engineer/Construction, Water Supplies Department;
- (d) Chief Engineer/Mainland South, Drainage Services Department;
- (e) Director of Electrical and Mechanical Services;
- (f) Chief Highway Engineer/New Territories East, Highways Department; and
- (g) Project Manager/North, Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 1.6.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 34 public comments from the LegCo Member, Indigenous Inhabitant Representative of Wo Liu Hang Village and villagers of Wo Liu Hang Village, green group and members of the general public were received. Details of the public comments are at **Appendix VI**. Their views are summarized as follows:

Supporting views (2)

- (a) there is an urgency for Small House development to meet housing needs of villagers.

Objecting views (32)

- (b) the natural environment and landscape at/in vicinity of the Site (i.e. existing water stream, trees and natural slope) have been damaged prior to the submission of the application, which constitutes “destroy first, build later”;
- (c) the Site is located at “GB” zone, which acts as a major green buffer for Wo Liu Hang Village. The proposed development will induce adverse impacts on the ecology, biodiversity, landscape, sewerage, traffic, flood and slope safety aspects of the area;
- (d) 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. Various similar applications in the vicinity of the Site were rejected by the Board in 2008;
- (e) the applicant has not provided strong justifications and detailed technical assessments to support the application.
- (f) the Site is not suitable for Small House development as the future resident will be adversely affected by the air pollution from the nearby columbarium development. It is also suspected that the Site may be used for columbarium development; and
- (g) the Site is surrounded by private land, natural slope and water stream. In view that vehicular access to/from the Site is not available, the proposed development will cause safety hazard.

12. Planning Considerations and Assessments

- 12.1 The Site falls partly within an area zoned “V” (about 79%) and partly within an area zoned “GB” (about 21%) 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 Wo Liu Hang Village is 11 while the 10-year Small House demand forecast is 120. For Pat Tsz Wo Resite Area, there is no outstanding Small House application while the 10-year Small House demand forecast is 35. Based on the latest estimate by the PlanD, about 1.13ha of land (or equivalent to about 45 Small House sites) are available within the “V” zone of Wo Liu Hang Village and Pat Tsz Wo Resite Area. The footprint of the proposed Small House falls entirely within the ‘VE’ of the concerned village/resite area. DLO/ST, LandsD has no objection to the application.
- 12.3 The Site is located at the north-eastern fringe of the Wo Liu Hang “V” zone and is partly covered with wild grasses and partly used for active agricultural activities (**Plans A-2a and A-4**). The proposed development is not incompatible with the surrounding areas of urban fringe landscape character comprising woodland, village houses, domestic structures and industrial buildings (**Plan A-3a**). CTP/UD&L of PlanD has reservation on the application from landscape planning

perspective. Extensive clearance of vegetation at and around the Site is illustrated in the comparison of aerial photos of 2016 to 2018 (**Plans A-3a and A-3b**). Approval of this application will set an undesirable precedent to encourage similar application to extend the village into the adjacent “GB” zone. The cumulative effect of piecemeal developments will cause adverse impact on the landscape resource and character of the area and resulting in gradual degradation and irreversible change to the green belt. In this regard, the proposed development does not comply with the TPB PG-No. 10 in that the proposed development would affect the existing natural landscape in the surrounding areas.

- 12.4 DAFC has reservation on the application from agricultural point of view as there are agricultural activities in the Site and agricultural infrastructure such as water supply is available. Similar to the concerns of CTP/UD&L of PlanD, DAFC pointed out that suspected unauthorised tree felling was observed at/in vicinity of the Site early this year and advised that the Board should consider whether this application would constitute “destroy first, build later”.
- 12.5 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.
- 12.6 Whilst the Site is entirely within the ‘VE’ of Wo Liu Hang Village and Pat Tsz Wo Resite Area (**Plan A-1**), the application does not comply with the Interim Criteria (**Appendix II**) in that it 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 1.13ha or equivalent to about 45 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.
- 12.7 Among the public comments received, two support the application while the other 32 object to the application on the grounds of contravening the planning intention of “GB” zone, causing adverse landscape, traffic, sewerage and slope safety impacts, lacking justifications and assessments, 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 it has involved extensive clearance in vegetation and would affect the existing natural landscape in the surrounding areas;
 - (d) land is still available within the “V” zone of Wo Liu Hang Village and Pat Tsz Wo 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 20.7.2022, 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 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 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 VII**.

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 25.5.2018
Appendix II	Interim criteria
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant government departments
Appendix V	GEO advice note
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawings A-1 to A-2	Drawings submitted by the applicant
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-3a	Aerial photo taken on 22.3.2018
Plan A-3b	Aerial photos taken on 6.10.2016 and 2.4.2017
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2018**