

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/562

<u>Applicant</u>	Mr. Isaac LAM represented by Euro Asia Construction Engineering Limited
<u>Site</u>	Lot 981 S.D in D.D. 9, Nam Wa Po, Tai Po, New Territories
<u>Site Area</u>	About 181.7 m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zonings</u>	“Village Type Development” (“V”) (about 47m ² or 26% of the Site) and “Green Belt” (“GB”) (about 135m ² or 74% of the Site)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager (IV) of Nam Wa Po, Tai Po confirmed by the Indigenous Inhabitant Representative (IIR)¹, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ use is always permitted within the “V” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “GB” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

Total floor area	: 195.09m ²
No. of storeys	: 3
Building height	: 8.23m
Roofed over area	: 65.03m ²

1.3 Layout of the proposed Small House and the sewerage connection proposal are shown on **Drawings A-1** and **A-2**.

¹ District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) application form with attachments on 25.1.2019 (Appendix I)
- (b) further information received on 3.4.2019 and 9.4.2019 providing sewerage connection proposal and owners' consent (*accepted and exempted from publication and recounting requirements*) (Appendices Ia and Ib)
- (c) further information received on 22.5.2019 providing responses to departmental comments (*accepted and exempted from publication and recounting requirements*) (Appendix Ic)

1.5 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed on 22.3.2019 to defer the consideration of the application for one month to allow time for the applicant to prepare further information to support the application. The applicant submitted further information on 3.4.2019, 9.4.2019 and 22.5.2019. The application is scheduled for consideration on 31.5.2019.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application stated in Part 9 of the application form at **Appendix I** are summarized as follows:

- (a) the applicant is an indigenous villager of Nam Wa Po, Tai Po. The Site falls within "V" and "GB" zones, and the proposed Small House footprint falls entirely within the village 'environs' ('VE') of Nam Wa Po (**Drawing A-1**). Therefore, the application is in line with the Small House Policy;
- (b) he has submitted a Small House application to LandsD on 8.10.2018;
- (c) there are a number of similar applications in the vicinity of the Site approved by the Board. The nearest one is application No. A/NE-KLH/463;
- (d) the Site is the only land resource for the applicant to accommodate his need for Small House development;
- (e) the Site is vacant. The proposed development will bring a new house and landscaping features which will improve visual and environmental qualities; and
- (f) the Site will comprise one Small House only and will not have direct link with local track. As it will mostly rely on public transport and pedestrian facilities, the proposed development will have insignificant traffic impact.

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. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest Interim Criteria with criterion (i) remained unchanged was promulgated on 7.9.2007 and 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' is relevant to this application. The relevant assessment criteria are summarised as follows:

- (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;
- (c) applications for NTEH 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 at the Site.

7. Similar Applications

- 7.1 There are two similar applications (No. A/NE-KLH/330 and 463) for Small House development within the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Both applications covering the same site were approved by the Committee in 2005 and 2014 respectively mainly for the reasons of complying with the Interim Criteria in that there was general shortage of land in the concerned “V” zone to meet the demand for Small House development at the time of consideration; more than 50% of the proposed Small House footprint fell within the ‘VE’ of the concerned village; and the proposed development was able to be connected to the planned sewerage system in the area. Application No. A/NE-KLH/463 was also approved on sympathetic consideration as the application site was the subject of a previously approved case.
- 7.2 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

8. The Site and its Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3 and A-4)

- 8.1 The Site is:
- (a) vacant with groundcovers;
 - (b) located at the eastern fringe of Nam Wa Po;
 - (c) entirely within the ‘VE’ of Nam Wa Po; and
 - (d) accessible by a local track and in proximity to a paved driveway in the east.
- 8.2 The surrounding areas are predominantly rural in character comprising scattered tree groups and village houses. Village clusters are mainly found to the west of the Site.

9. Planning Intentions

- 9.1 The planning intention of the “V” zone 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.
- 9.2 The planning intention of the “GB” zone is primarily for defining the limit 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. 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 Small House - Application site	10% 26%	90% 74%	- The remaining portions of the Site and Small House footprint fall within the “GB” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the Small House footprint fall entirely within the ‘VE’ of Nam Wa Po (Plan A-1). - DLO/TP, LandsD has no objection to the application.
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 Nam Wa Po: about 5.08 ha (equivalent to 203 Small House sites). The outstanding Small House applications are 18 ² while the 10-year Small House demand forecast for the same village is 185. - Land available to meet Small House demand within the “V” zone of Nam Wa Po: about 2.32 ha (equivalent to 92 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “GB” zone?		✓	- There is general presumption against development within the “GB” zone. - Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view as the proposed development may only affect some plants of common species.
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character mainly comprising scattered tree

² Among the 18 outstanding Small House applications, 14 of them fall within the “V” zone and 4 straddle or outside the “V” zone. For those 4 applications straddling or being outside the “V” zone, 1 of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				groups and village houses.
6.	Within Water Gathering Ground (WGG)?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application as the proposed Small House is able to be connected to the public sewerage system in the area. - Approval conditions on connection to public sewers and provision of protective measures to WGG are required.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and Emergency Vehicular Access (EVA)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no comment on the application.
9.	Traffic impact?		✓	<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has no in-principle objection to the application.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?	✓		<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the application as the applicant has proposed to connect the Small House to the public sewer (Plan A-2a) and the public sewerage system has sufficient capacity to accommodate discharge from the proposed Small House. - The Chief Engineer/ Consultant Management, Drainage Services Department (CE/CM, DSD) advises that the public village sewerage

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				works at Nam Wa Po have been completed.
12.	Landscape impact?		✓	<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning point of view. Although the proposed layout is in direct conflict with existing trees, given the affected trees are common species and can be easily found in local market, adverse landscape impact arising from the proposed development can be tolerated.</p> <p>- should the application be approved, given that adverse visual impact due to the proposed development is not anticipated and there is inadequate space for quality landscape to benefit the public realm, landscape condition is not recommended.</p>
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design & Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Consultants Management, Drainage Services Department;
- (g) Director of Agriculture, Fisheries and Conservation;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Director of Fire Services.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;

- (d) Director of Electrical and Mechanical Services; and
- (e) District Officer/Tai Po, Home Affairs Department.

11. Public Comments Received During Statutory Publication Period (Appendix V)

On 1.2.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from the Hong Kong Bird Watching Society and an individual objecting to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; being “destroy first, build later”; setting undesirable precedent; and causing adverse environmental and ecological impacts.

12. Planning Considerations and Assessments

- 12.1 The Site falls within an area mainly zoned “GB” (about 74%) and partly zoned “V” (about 26%). 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 this zone. DAFC has no strong view on the application from nature conservation point of view as the proposed development may only affect some plants of common species.
- 12.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Nam Wa Po is 18 while the 10-year Small House demand forecast for the same village is 185. Based on the latest estimate by PlanD, about 2.32 ha of land (equivalent to about 92 Small House sites) are available within the “V” zone of Nam Wa Po (**Plan A-2b**). As the Site falls entirely within the ‘VE’ of Nam Wa Po, DLO/TP of LandsD has no objection to the application.
- 12.3 The Site, located at the eastern fringe of Nam Wa Po (**Plan A-2a**), is vacant with groundcovers (**Plan A-4**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising scattered tree groups and village houses (**Plans A-2a** and **A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective. Although the proposed layout is in direct conflict with existing trees, given the affected trees are common species and can be easily found in local market, adverse landscape impact arising from the proposed development can be tolerated. Should the application be approved, given that adverse visual impact due to the proposed development is not anticipated and there is inadequate space for quality landscape to benefit the public realm, landscape condition is not recommended.
- 12.4 The Site falls within the upper indirect WGG. According to CE/CM of DSD and DEP, the construction works of the public sewerage at Nam Wa Po has been completed and would be ready for connection within 2019. The applicant has proposed to connect the proposed Small House to the public sewerage system at Nam Wa Po (**Plan A-2a**) with consents obtained from affected lot owners. Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed Small House to the public sewer at his own cost when the public sewerage system is available for connection and adequate space within the Site will be reserved for connection. Other relevant Government departments

including C for T, CE/MN of DSD, CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or adverse comment on the application. In view of the above, the proposed development is generally in compliance with the TPB-PG No. 10 for development within “GB” zone.

- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Nam Wa Po and the proposed development located within WGG would be able to be connected to the public sewerage system (**Plan A-2a**). While land available within the “V” zone (about 2.32 ha or equivalent to about 92 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 18 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 since August 2015. 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 development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.6 There are two similar applications (No. A/NE-KLH/330 and 463) for Small House development within the same “GB” zone in the vicinity of the Site (**Plans A-1 and A-2a**). Both applications covering the same site were approved in 2005 and 2014 respectively before the Board’s adoption of a more cautious approach in August 2015. They were approved mainly for the reasons of generally complying with the Interim Criteria in that there was general shortage of land in the concerned “V” zone to meet the demand for Small House development at the time of consideration; more than 50% of the proposed Small House footprint fell within the ‘VE’ of the concerned village; and the proposed development was able to be connected to the planned sewerage system in the area. Application No. A/NE-KLH/463 was also approved on sympathetic consideration as the application site was the subject of a previously approved case. The circumstances of the current application are not similar to the above approved applications.
- 12.7 Regarding the public comments raising objection to the application on the grounds as detailed in paragraph 11 above, Government departments’ comments and the planning assessments in above paragraphs 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, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “Green Belt” (“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. There is no strong planning justification in the submission for a departure from this planning intention; and

- (b) land is still available within the “V” zone of Nam Wa Po 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 a more orderly development pattern, efficient use of land and provision of infrastructures and services.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **31.5.2023**, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (c) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or 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 25.1.2019
Appendix Ia	further information received on 3.4.2019
Appendix Ib	further information received on 9.4.2019
Appendix Ic	further information received on 22.5.2019
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant Government departments

Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Sewerage connection proposal submitted by the applicant
Drawing A-3	Proposed sewerage invert levels design plan 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-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
MAY 2019**