

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TK/641**

<b><u>Applicant</u></b>	Mr. LEE Kim Ho represented by Mr. HUI Kwan Yee
<b><u>Site</u></b>	Lot 1471 in D.D. 17, Lo Tsz Tin, Tai Po, New Territories
<b><u>Site Area</u></b>	About 202.4m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<b><u>Zonings</u></b>	“Village Type Development” (“V”) (about 46%) “Green Belt” (“GB”) (about 54%)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, claims to be an indigenous villager of Shuen Wan Wai Ha<sup>1</sup>, 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)’ 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 “GB” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) are as follows:

Total floor area	:	195.09m <sup>2</sup>
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

1.3 Layout of the proposed Small House with a septic tank is shown on **Drawing A-1**.

1.4 The Site is the subject of two previous applications No. A/NE-TK/197 and 408 for the same proposed development. They were approved by the Rural and New Town Planning Committee (the Committee) on 9.12.2005 and 19.10.2012 respectively. Planning application No. A/NE-TK/197 was submitted by a

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<sup>1</sup> The 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.

different applicant while application No. A/NE-TK/408 was submitted by the same applicant. Compared with the last previous application No. A/NE-TK/408, the major development parameters of the proposed Small House are the same.

- 1.5 In support of the application, the applicant submitted an application form and relevant attachments on 20.4.2018 (**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 proposed house is built on abandoned farm land and there is no other alternative land available in the area. There are similar houses built in the vicinity of the Site;
- (b) the Site is the subject of a previous planning application (No. A/NE-TK/408) approved with conditions in 2012. The details of the current application are the same as the previous one; and
- (c) the application is submitted as the applicant forgot to extend the validity of the previous planning permission before it ceased to have effect in October 2016.

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

The applicant is the sole “current land owner” of the Site. 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 (WGGs), should be able to be connected to the existing or planned sewerage system in the area was incorporated. The latest set of 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 “Green Belt” zone under section 16 of the Town Planning Ordinance’ are relevant to this application. The relevant assessment criteria are summarized 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. 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 Applications**

- 6.1 The Site is the subject of two previous applications No. A/NE-TK/197 and 408 for the same use. Application No. A/NE-TK/197 submitted by a different applicant was approved with conditions by the Committee on 9.12.2005 and application No. A/NE-TK/408 submitted by the same applicant was approved on 19.10.2012. They were approved mainly on the considerations of being generally in line with the TPB-PG No. 10 for development within “GB” zone in that the proposed development would not involve extensive clearance of existing natural vegetation and adversely affect slope stability; and being generally in line with the Interim Criteria in that more than 50% of the Small House footprint was located within the ‘VE’ and there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration. Compared with the last previous application No. A/NE-TK/408, the major development parameters of the proposed Small House are the same.
- 6.2 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.

## 7. Similar Applications

- 7.1 There are nine similar applications (No. A/NE-TK/222, 266, 322, 323, 332, 458, 543, 544, 604) involving six sites for Small House development within the same “GB” zone (**Plan A-1**). Seven of them were approved with conditions, one was rejected and one was partially approved and partially rejected.
- 7.2 Application No. A/NE-TK/222 for five houses (Houses A to E) was partially approved and partially rejected by the Committee on 3.11.2006. Houses A to D under the application were approved on the ground of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘VE’ and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned village at the time of consideration. Nonetheless, House E under the application was rejected for the reasons of not complying with the Interim Criteria in that more than 50% of the Small House footprint was outside the “V” zone and the ‘VE’ of any recognised village; and the approval of the application would set an undesirable precedent for other similar applications in the “GB” zone. Subsequently, application No. A/NE-TK/266, covering the site for House E with a revised footprint, was approved on 13.2.2009 on similar ground of Houses A to D under application No. A/NE-TK/222.
- 7.3 Five applications (No. A/NE-TK/322, 323, 458, 543 and 544) were approved with conditions by the Committee between 2010 and 2015 mainly on the consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘VE’ and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned village at the time of consideration. Applications (No. A/NE-TK/458, 543 and 544) were also approved as previous planning permission had been granted.
- 7.4 Application No. A/NE-TK/604 was approved with conditions on 3.3.2017 after the cautious approach being adopted by the Board, mainly on the grounds of being in line with TPB PG-No. 10 for development within “GB” zone in that there was no significant adverse impact on visual, landscape, drainage, sewerage and geotechnical aspects; and the application site was right adjacent to the existing village cluster of Lo Tsz Tin to the immediate west and the majority of the application site fell within “V” zone.
- 7.5 The remaining application No. A/NE-TK/332 was rejected by the Committee on 10.12.2010 mainly on the grounds that it did not comply with the Interim Criteria in that more than 50% of the Small House footprint was outside the “V” zone and the ‘VE’ of any recognized villages; and approval of the application would set an undesirable precedent for other similar applications in the “GB” zone.
- 7.6 Details of the similar applications are summarized at **Appendix IV** 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 and partly vegetated;
- (b) entirely within the ‘VE’ of Lo Tsz Tin; and
- (c) accessible by footpath and local track leading to Ting Kok Road in the south.

8.2 The surrounding areas are predominantly rural in character comprising of natural woodland and village houses. The village proper of Lo Tsz Tin is located to the south and west of the Site further down the hill. A dense woodland contains mature trees and undergrowth forming a natural backdrop to the area is in the north of the Site. A stream is found about 20m to the west of the Site.

**9. Planning Intentions**

9.1 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. 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 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.

**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:

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
1.	Within “V” zone? - Footprint of the Small House - Application site	26% 46%	74% 54%	- The remaining portion of the Site and the footprint of the proposed Small House fall within “GB” zone.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> <li>- Footprint of the Small House</li> <li>- Application site</li> </ul>	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> <li>- The Site and the footprint of the proposed Small House fall entirely within the 'VE' of Lo Tsz Tin.</li> <li>- District Lands Officer/ Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.</li> </ul>
3.	<p>Sufficient land in "V" zone to satisfy outstanding Small House applications and 10-year Small House demand?</p>		✓	<ul style="list-style-type: none"> <li>- Land required to meet Small House demand in Lo Tsz Tin: about 3.7 ha (or equivalent to 148 Small House sites). The outstanding Small House applications are 28 while the 10-year Small House demand forecast is 120.</li> <li>- Land available to meet Small House demand within the "V" zone of the village concerned: about 2.44 ha (or equivalent to about 97 Small House sites) (<b>Plan A-2b</b>).</li> </ul>
4.	<p>Compatible with the planning intention of "GB" zone?</p>		✓	<ul style="list-style-type: none"> <li>- There is a general presumption against development within the "GB" zone.</li> <li>- Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is vacant.</li> </ul>
5.	<p>Compatible with surrounding area/ development?</p>	✓		<ul style="list-style-type: none"> <li>- The surrounding areas are predominantly rural in character occupied by natural woodland and village houses.</li> </ul>
6.	<p>Within WGG?</p>		✓	
7.	<p>Encroachment onto planned road networks and public works boundaries?</p>		✓	
8.	<p>Need for provision of fire services installations and emergency vehicular</p>		✓	<ul style="list-style-type: none"> <li>- Director of Fire Services (D of FS) has no in-principle objection to the application.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	access (EVA)?			
9.	Traffic impact?		✓	- Commissioner for Transport (C for T) has no in-principle objection to the application from traffic engineering point of view.
10.	Drainage impact?	✓		- 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?	✓		- Director of Environmental Protection (DEP) has no objection to the application and advises that the applicant should consider connecting the proposed Small House to the existing public sewerage. In case the connection is not feasible and the use of septic tank and soakaway (STS) system is proposed for sewage treatment and disposal, the design and construction of the STS system should follow the requirements of the Practice Note for Professional Person (ProPECC) PN5/93 "Drainage Plans subject to Comment by the EPD" and are duly certified by an Authorised Person.  - As the Site is in close proximity to a natural stream, should the use of STS system be proposed, the applicant should comply with the clearance distance of the soakaway system (not the septic tank) of at least 15m away from the stream.
12.	Landscape impact?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD)

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>has no objection to the application from the landscape planning perspective and advises that three existing young trees of common species and low amenity value will be in conflict with the proposed development. As there is space for compensatory tree planting within the Site, adverse impact on tree removal can be mitigated.</p> <p>- Should the application be approved, approval condition on submission and implementation of landscape proposal is recommended.</p>
13.	Geotechnical impact?		✓	
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Detailed comments from Government departments are at **Appendix V**.

- (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) Director of Agriculture, Fisheries and Conservation;
- (f) Chief Engineer/Mainland North, Drainage Services Department;
- (g) Chief Engineer/Consultants Management, Drainage Services Department;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Director of Fire Services.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager/North, Civil Engineering and Development Department;
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (e) District Officer (Tai Po), Home Affairs 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, two public comments were received from World Wide Fund for Nature Hong Kong and an individual objecting to the application mainly for reasons of being not in line with the planning intention of the “GB” zone; approval of the application would set an undesirable precedent for other similar applications; and the Site being close to a stream course, surface runoff during construction phase and overflow of sewage from septic tank will cause adverse impacts on the environment (**Appendix VI**).

## 12. Planning Considerations and Assessments

12.1 The Site is partly zoned “GB” (about 54%) and partly zoned “V” (about 46%). The proposed development is not in line with the planning intention of “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 as the Site is vacant.

12.2 This is a cross-village Small House application. According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Lo Tsz Tin is 28 while the 10-year Small House demand forecast for the same village is 120. Based on the latest estimate by the PlanD, about 2.44 ha (or equivalent to about 97 Small House sites) of land are available within the “V” zone of Lo Tsz Tin. As the Site falls entirely within the ‘VE’ of the concerned village, DLO/TP has no objection to the application

12.3 The Site, located at the north-eastern fringe of Lo Tsz Tin, is vacant and partly vegetated. The proposed development is not incompatible with the surrounding area which is predominantly rural in character comprising natural woodland to its north and village houses to its south and west (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective. While three existing young trees of common species and low amenity value will be in conflict with the proposed house, there is space for compensatory tree planting within the Site to mitigate the adverse impact on tree removal. Should the application be approved, an approval condition on landscape proposal is recommended. Other concerned departments including C for T, DEP, CE/MN and CE/CM of DSD, CE/C of WSD and H(GEO) of CEDD have no objection to/ 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.

12.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Lo Tsz Tin (**Plan A-1**). While land available within the “V” zone for Small House development (about 2.44 ha or equivalent to about 97 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 28 outstanding Small House applications. 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. As such, 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. Nevertheless, the Site is the subject of a previous application No. A/NE-TK/408 submitted by the same applicant which was approved on 19.10.2012. Compared with the previously approved application No. A/NE-TK/408, the major development parameters of the proposed Small House are the same and there is no significant change in planning circumstances. Therefore, sympathetic consideration could be given to the current application.

- 12.5 There are seven similar applications straddling onto both “GB” and “V” zones in close vicinity of the Site (**Plan A-2a**). Application No. A/NE-TK/222 for five proposed Small Houses was partially approved and partially rejected on 3.11.2006. Houses A to D under the application were approved mainly on the consideration of being in line with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the ‘VE’ and there was a general shortage of land to meet the demand for Small House development in the “V” zone of the concerned village at the time of consideration. Nonetheless, House E under the application was rejected for the reasons that it did not comply with the Interim Criteria in that more than 50% of the Small House footprint was outside the “V” zone and the ‘VE’; and approval of the application would set an undesirable precedent for other similar applications in the “GB” zone. Subsequently, application No. A/NE-TK/266, covering the site for House E with a revised footprint, and the remaining five applications (No. A/NE-TK/322, 323, 458, 543 and 544), were approved with conditions by the Committee between 2009 and 2015 on similar ground of Houses A to D under application No. A/NE-TK/222. Applications No. A/NE-TK/458, 543 and 544 were also approved as previous planning permission had been granted.
- 12.6 Regarding the public comments objecting to the application mainly on the grounds of being not in line with the planning intention of the “GB” zone; the approval of the application would set an undesirable precedent for other similar applications; and the Site being close to a stream course, surface runoff during construction phase and overflow of sewage from septic tank will cause adverse impacts on the environment, the comments from concerned Government departments and 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 has no objection to the application.
- 13.2 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 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;
- (b) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board; and
- (c) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

13.3 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 "GB" zone for the area 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 the planning intention; and
- (b) land is still available within the "V" zone of Lo Tsz Tin 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 infrastructure and services.

**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 20.4.2018
Appendix II	Interim Criteria for Consideration of application for NTEH/Small House in New Territories
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Site 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 "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT  
JUNE 2018**