

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-YSO/6

- Applicant** : Mr. FONG Ho Yin represented by Heng Fai Consulting Limited
- Site** : Government Land in D.D. 204, Yung Shue O Village, Tai Po, New Territories
- Site Area** : 65.03m²
- Land Status** : Government Land
- Plan** : Approved Yung Shue O Outline Zoning Plan (OZP) No. S/NE-YSO/2
- Zonings** : “Village Type Development” (“V”) (about 50.7%) and
“Green Belt” (“GB”) (about 49.3%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Yung Shue O Village¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site). The Site falls within an area partly zoned “V” (about 50.7%) and partly zoned “GB” (about 49.3%) on the approved Yung Shue O OZP No. S/NE-YSO/2 (**Plan A-1 and Plan A-2a**). 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 the “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	:	195.09 m ²
Number of Storeys	:	3
Building Height	:	8.23 m
Roofed Over Area	:	65.03 m ²

¹ The District Lands Officer/Tai Po, Lands Department advises that the applicant is an indigenous villager of Yung Shue O Village.

- 1.3 Layout of the proposed NTEH (Small House) with the septic tank location is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted application form and attachment at **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**. The main points can be summarized as follows:

- (a) the applicant is an indigenous villager of Yung Shue O Village and is entitled to a Small House grant;
- (b) there is a shortage of Government land in meeting the demand for Small House development in the “V” zone of Yung Shue O Village;
- (c) the proposed Small House development will not cause any environmental and drainage impacts; and
- (d) the applicant is advised by the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) to submit an application to the Board for the proposed Small House development under section 16 of the Town Planning Ordinance.

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 (the 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' is relevant to this application. The relevant assessment criteria are summarized below:

- (a) there is a general presumption against development (other than redevelopment) in a "GB" zone;
- (b) an application for new development in a "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. 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 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 vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development should not overstrain the overall provision of Government, institution or community facilities in the general area; and
- (h) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (i) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application on the Site.

7. Similar Applications

- 7.1 There are four similar applications (No. A/NE-YSO/1 to 4) for proposed house (NTEH - Small House) within the “GB” zone in the vicinity of the Site (**Plans A-1 and A-2a**) since the first promulgation of the Interim Criteria in 2000.
- 7.2 These applications were rejected by the Committee between March 2016 and August 2017 mainly for the reasons that the proposed development was not in line with the planning intention of “GB” zone; the application did not comply with the Interim Criteria and TPB PG-No. 10 in that the proposed development would cause adverse environmental, landscape, sewerage and geotechnical impacts on the surrounding area; land was still available within “V” zone of Yung Shue O for Small House development; and the approval of the application would set an undesirable precedent for similar applications in the area.
- 7.3 Details of the 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 Area (Plans A-1, A-2a, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4b)

- 8.1 The Site is:
 - (a) located at the northeastern corner of Yung Shue O Village and to the west of a permitted burial ground;
 - (b) partly covered with vegetation and situated on vegetated slope; and
 - (c) accessible via a local access.
- 8.2 The surrounding area is natural and rural in character mainly comprising the hillside woodland to the northeast and the existing village cluster to the southwest.

9. Planning Intentions

- 9.1 The planning intention of the “V” zone is to designate both the existing recognized village 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 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 Interim Criteria at **Appendix II**. The assessment is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - Application site 	<p>50.7%</p> <p>50.7%</p>	<p>49.3%</p> <p>49.3%</p>	<p>The Site and the footprint of the proposed Small House falls partly within “V” zone (32.96m², 50.7%) and partly within “GB” zone (32.07m², 49.3%).</p>
2.	<p>Within ‘VE’?</p> <ul style="list-style-type: none"> - Footprint of the proposed Small House - Application site 	<p>100%</p> <p>100%</p>		<ul style="list-style-type: none"> - DLO/TP, LandsD has no objection to the application and advises that the Site falls entirely within the ‘VE’ of Yung Shue O Village.
3.	<p>Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?</p>		<p>✓</p>	<ul style="list-style-type: none"> - Land required to meet Small House demand in Yung Shue O Village: 694 Small House sites (about 17.35 ha). The number of outstanding Small House applications is 20 while the 10-year Small House forecast is 674. - Land available within the “V” zone of Yung Shue O Village: about 1.1 ha (or equivalent to 44 Small House sites).
4.	<p>Compatible with the planning intention of the “GB” zone?</p>		<p>✓</p>	<ul style="list-style-type: none"> - There is a general presumption against development within the “GB” zone.
5.	<p>Compatible with surrounding area/development?</p>	<p>✓</p>		<ul style="list-style-type: none"> - The proposed Small House is not incompatible with the surrounding environment which is natural and rural in character mainly comprising the hillside woodland to the northeast and the existing village cluster to the southwest.
6.	<p>Within Water Gathering Ground?</p>		<p>✓</p>	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe the “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.
9.	Geotechnical impact?	✓		<ul style="list-style-type: none"> - The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advises that the Site is overlooked by steep natural hillside and meets the alert criteria requiring a Natural Terrain Hazard Study (NTHS). - The applicant is required to submit a Geotechnical Planning Review Report to assess the geotechnical feasibility of the proposed development. - He has in-principle objection to the application, unless the applicant is prepared to undertake a NTHS and to provide suitable mitigation measures, if found necessary, as part of the development. However, this could have significant cost implication and render the Small House development not economically viable. Thus, the applicant may look for an alternative site for the proposed development if found practicable.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) in general, has reservation on the application and advises that Small House development should be confined within the “V” zone as far as possible. - Notwithstanding the above, the application only involves development of a Small House. C for T considers that the application can be tolerated unless it is rejected on other grounds.
11.	Drainage impact?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection in-principle to the application. He advises that there is no public drain maintained by his office in the vicinity of the Site. - An approval condition on the submission and implementation of a drainage proposal is required for the application.
12.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the application. The proposed septic tank and soakaway system is considered an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements in Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person (AP).
13.	Ecological impact?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
14.	Landscape impact?	✓		<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) has reservation on the application as the Site is partly covered with dense vegetation and native trees on Government land will be affected by the proposed development. - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from the landscape planning perspective as the Site is partly vegetated and adverse impact on existing landscape resources is anticipated. The Site is partly located on a vegetated slope, the proposed development would inevitably involve site formation and/or slope works but the adverse impact from the proposed development to the adjacent native trees and vegetation cannot be ascertained. In addition, there are a tree stump within the Site and signs of recent tree cutting adjacent to the Site, and the reason of the tree works is in doubt. Approval of the application would set an undesirable precedent to similar developments encroaching onto the “GB” zone, the cumulative effect of approving similar applications would result in landscape degradation of the area. <p>Since the proposed Small House covers the entire Site, there is no space for landscaping within the site boundary.</p>
15.	Local objection received from District Officer?		✓	<ul style="list-style-type: none"> - The District Officer (Tai Po), Home Affairs Department (DO(TP), HAD) has no comments on the application from the departmental point of view.

10.2 Comments from the following Government departments on the application have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix IV**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Fire Services;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Commissioner for Transport;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Environmental Protection;
- (g) Director of Agriculture, Fisheries and Conservation;
- (h) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (i) District Officer (Tai Po), Home Affairs Department;
- (j) Chief Engineer/Construction, Water Supplies Department; and
- (k) Director of Electrical and Mechanical Services.

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

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

11. Public Comments Received During Statutory Publication Period

On 20.3.2018, the application was published for public inspection. During the first three weeks of the statutory inspection period which ended on 10.4.2018, four public comments were received (**Appendix V**) from Kadoorie Farm & Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, Designing Hong Kong Limited and an individual objecting to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “GB” zone; it would cause adverse ecological, landscape, traffic and sewerage impacts on the surroundings area; availability of land within the “V” zone for Small House development; and setting of undesirable precedent for other similar applications, etc.

12. Planning Considerations and Assessments

12.1 Half of the Site (about 50.7%) falls within “V” zone whilst another half of the Site (about 49.3%) falls within “GB” zone. 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 the “GB” zone. There

is no strong planning justification in the submission for a departure from the planning intention of the “GB” zone.

- 12.2 According to the DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Yung Shue O Village is 20 while the 10-year Small House demand forecast is 674. Based on the latest estimate by the Planning Department, about 1.1 ha (equivalent to about 44 Small House sites) of land is available within the “V” zone of Yung Shue O (**Plan A-2b**). The Site falls entirely within the ‘VE’ of Yung Shue O Village, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site is partly covered with vegetation and situated on vegetated slope, and accessible via a local access (**Plan A-2a**). The proposed Small House is not incompatible with the surrounding environment which is natural and rural in character mainly comprising the hillside woodland to the northeast and the existing village cluster to the southwest. DAFC has reservation on the application as the Site is partly covered with dense vegetation and native trees on Government land will be affected by the proposed development. CTP/UD&L, PlanD has some reservations to the application from the landscape planning perspective as the proposed development would cause adverse impact on existing landscape resources, and inevitably involve site formation and/or slope works but the adverse impact from the proposed development on the adjacent trees and vegetation cannot be ascertained. Approval of the application would set an undesirable precedent to similar developments encroaching onto the “GB” zone, the cumulative effect of approving similar applications would result in landscape degradation of the area.
- 12.4 H(GEO), CEDD has in-principle objection to the application as the Site is overlooked by steep natural hillside and meets the alert criteria requiring a NTHS, unless the applicant is prepared to undertake a NTHS and to provide suitable mitigation measures, as part of the development. There is no submission of Geotechnical Planning Review Report in support of the application nor to assess the geotechnical feasibility of the proposed development. C for T has reservation on the application as such development should be concentrated within the “V” zone as far as possible for the cumulative adverse traffic impact could be substantial but considers that the proposed development involving one house only can be tolerated. Other concerned departments including CE/MN, DSD and DEP have no objection or no adverse comment on the application.
- 12.5 Regarding the Interim Criteria, more than 50% of the proposed Small House footprint falls within the “VE” of Yung Shue O Village. While land available within the “V” zone of Yung Shue O Village (about 1.1 ha or equivalent to 44 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the outstanding 20 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.

- 12.6 The application does not meet the Interim Criteria in that the applicant fails to demonstrate that the proposed development would not cause adverse landscape and geotechnical impacts on the surrounding area. The proposed development is not in line with the requirements of the TPB PG-No. 10 as it would involve clearance of existing natural vegetation, affect the existing natural landscape and adversely affect slope stability. The approval of the application would set an undesirable precedent for similar applications in the area, the cumulative effect of approving such application would result in general degradation of the natural environment and landscape quality of the area.
- 12.7 There are four similar applications (No. A/NE-YSO/1 to 4) within the “GB” zone in the vicinity of the Site (**Plans A-1 and A-2a**). Those applications were rejected by the Committee between March 2016 and August 2017 mainly for the reasons that the proposed development was not in line with the planning intention of “GB” zone; the application did not comply with the Interim Criteria and TPB PG-No. 10 in that the proposed development would cause adverse environmental, landscape, sewerage and/or geotechnical impacts on the surrounding area; land was still available within “V” zone of Yung Shue O for Small House development; and the approval of the application would set an undesirable precedent for similar applications in the area.
- 12.8 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; adverse impacts on the surroundings area; availability of land within the “V” zone and setting of undesirable precedent for other similar applications, the comments from relevant Government departments and planning assessment as mentioned in above paragraphs 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 Planning Department does not support the application for the following reasons:
 - (a) the proposed development is not in line with the planning intention of “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 the planning intention of the “GB” zone;
 - (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small

House in New Territories in that the proposed development would cause adverse landscape and geotechnical impacts on the surrounding area;

- (c) the proposed development does not comply with the Town Planning Board Guidelines PG-No. 10 for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of existing natural vegetation, affect the existing natural landscape and adversely affect slope stability;
- (d) land is still available within the "Village Type Development" ("V") zone of Yung Shue O Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within "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 in the area. The cumulative effect of approving such application would result in general degradation of the natural environment and landscape quality of the area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **4.5.2022**, 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 of a Natural Terrain Hazard Study Report and provision of suitable mitigation measures to the satisfaction of the Director of Civil Engineering and Development or of the Town Planning Board; and
- (c) the submission and implementation of a 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 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 condition(s) and advisory clause(s), if any, 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 with Attachment received on 13.3.2018
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Similar s.16 Applications within the “Green Belt” Zone in the Vicinity of the Site
Appendix IV	Comments from Relevant Government Departments on the Application
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Layout Plan
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
Plans A-4a and A-4b	Site Photos