

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/TP/645 and 646

<u>Applicants</u>	Mr. LAM Ho Man Mr. LAM Wai Man Raymond both represented by Mr. HA Ka Hong William	(Application No. A/TP/645) (Application No. A/TP/646)
<u>Sites</u>	Lots 496 S.A RP and 496 S.B in D.D. 21 Lots 496 S.A ss.1 and 496 S.C in D.D. 21 both in Pun Shan Chau Village, Tai Po, N.T.	(Application No. A/TP/645) (Application No. A/TP/646)
<u>Site Area</u>	About 147.2 m ² About 150.9 m ²	(Application No. A/TP/645) (Application No. A/TP/646)
<u>Lease</u>	New Grant No. TP7881 for agricultural use	
<u>Plan</u>	Draft Tai Po Outline Zoning Plan (OZP) No. S/TP/27	
<u>Zonings</u>	“Village Type Development” (“V”) (about 42% of the site) “Green Belt” (“GB”) (about 58% of the site)	(Application No. A/TP/645)
	“V” (about 36% of the site) “GB” (about 64% of the site)	(Application No. A/TP/646)
<u>Applications</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)	

1. The Proposals

- 1.1 The applicants, who claim to be indigenous villagers (IV) of Ting Kok Village¹, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites). The Sites fall within an area partly zoned “GB” and partly zoned “V” on the draft Tai Po OZP No. S/TP/27 (**Plan A-1**). According to the Notes of the OZP, whilst ‘House (NTEH only)’ is always permitted within the “V” zone, ‘House (except for rebuilding of NTEH or replacement of existing domestic building by NTEH only)’ use within the “GB” zone requires planning permission from the Town Planning Board (the Board).

¹ As advised by DLO/TP, LandsD, the applicants’ eligibilities of Small House grants have yet to be ascertained.

1.2 Details of each of the proposed Small House developments 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 Layouts of the proposed Small Houses with septic tank locations are shown on **Drawings A-1a** and **A-2a**. Landscape proposals for the proposed developments are shown on **Drawings A-1b** and **A-2b**. Proposed site formation plan is shown on **Drawings A-1c** and **A-2c**.

1.4 In support of the applications, the applicants have submitted the following documents:

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|---|--------------------|
| (a) Application form with attachments (A/TP/645) | Appendix Ia |
| (b) Application form with attachments (A/TP/646) | Appendix Ib |
| (c) Further Information providing site formation plans in response to departmental comments | Appendix Ic |

1.5 The Sites of the current applications (No. A/TP/645 and 646) are the subjects of two previous applications (No. A/TP/635 and 634 respectively) for a proposed NETH/Small House development at each of the Sites, submitted by the same applicants.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the applications as mentioned in the attachments to the application forms at **Appendices Ia and Ib** are summarized as follows:

- the proposed Small House developments generally comply with the Town Planning Board Guidelines No. 10 regarding Application for Development within “GB” zone in that no tree felling is involved;
- the total 10-year Small House demand forecast for Pun Shan Chau Village is 120. It is estimated that only about 1.77 ha of land is available within the “V” zone of Pun Shan Chau Village and most of the available land is either located on Government land or on very steep slopes. Therefore the available land definitely cannot meet the existing and future Small House demand;
- the proposed Small House developments also comply with the Interim Criteria for Consideration of Application for NTEH in New Territories in that more than 50% of the proposed Small House footprints fall within the “V” zone and there is a general shortage of land in meeting the demand for Small House developments in the “V” zone;
- the proposed developments are compatible with the surrounding developments which are predominantly rural in character with clusters of village houses and temporary structures;

- (e) there was an approved similar case (Application No. A/TP/631) located right beside the Site;
- (f) the proposed developments are located at road side, hence could meet the emergency vehicular access requirements; and
- (g) the proposed landscape schemes would help to blend the developments with the existing landform and woodland on adjacent land.

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

The applicants are the sole “current land owner” of their respective lots. 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’ is relevant to the applications. 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 There is one previous application for each of the Sites, i.e. the previous case for Application No. A/TP/645 is No. A/TP/635 whereas the previous case for Application No. A/TP/646 is No. A/TP/634. The previous applications for the same use submitted by the same applicants were rejected by the Committee on 10.11.2017 mainly for the reasons of being not in line with the planning intention of the “GB” zone; non-compliance with the Interim Criteria in that there was no general shortage of land in meeting the demand for Small House development in the “V” zone and the proposed development would have adverse landscape impact on the surrounding areas; non-compliance with TPB PG-No. 10 in that the proposed development would affect the existing natural landscape; and land was still available within the “V” zone of Pun Shan Chau Village for Small House development. Compared with the previously rejected applications No. A/TP/634 and 635, the site area, layout and other development parameters of the proposed Small Houses under the current applications remain unchanged.
- 6.2 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-2a**.

7. Similar Applications

- 7.1 There are 12 similar applications (No. A/TP/326, 334, 337, 344, 366, 385, 416, 419, 437, 448, 623 and 631) within the same “GB” zone. Eight of them were approved and four were rejected between 2004 and 2017.
- 7.2 Among them, three applications (No. A/TP/416, 437 and 631) covering the same site were submitted by the same applicant. Application No. A/TP/416 was rejected by the Committee on 9.1.2009 mainly on the grounds of being not in line with the planning intention of the “GB” zone and not complied with the Interim Criteria in that more than 50% of the site and footprint were located outside both the ‘VE’ and the “V” zone. Subsequently, Application No. A/TP/437 was approved by the Committee on 23.10.2009 mainly on considerations that the proposed development complied with the Interim Criteria in that there was a general shortage of land in meeting the demand for Small House development in the “V” zone at the time of consideration and more than 50% of the proposed Small House footprint fell within “V” zone. However, the planning permission lapsed on 24.10.2013. Application No. A/TP/631 was approved by the Committee on 8.9.2017 mainly due to sympathetic consideration as it was the subject of a previously approved application (No. A/TP/437) and the processing of the Small House grant was at an advanced stage.
- 7.3 There were also six similar applications (No. A/TP/326, 337, 344, 366, 385 and 419) approved by the Committee between 2004 and 2009 on the considerations of being

complied with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the “V” zone/‘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; and the proposed developments would unlikely cause any adverse impacts on the surrounding areas.

- 7.4 The remaining three applications (No. A/TP/334, 448 and 623) were rejected by the Committee in 2004, 2010 and 2017 respectively. Applications No. A/TP/334 and 448 were rejected mainly on the grounds of being not in line with the planning intention of “GB” zone; non-compliance with the Interim Criteria in that more than 50% of the sites and footprints were located outside both the ‘VE’ and the “V” zone, and the proposed development would have adverse landscape impact on the surrounding areas; and/or setting of undesirable precedent. Application No. A/TP/623 was rejected by the Committee mainly on the grounds of being not in line with the planning intention of “GB” zone, non-compliance with the Interim Criteria and TPB-PG No.10 in that the proposed development would involve clearance of natural vegetation and have adverse landscape impact on the surrounding areas, and land was still available within the “V” zone for Small House development.
- 7.5 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

8. The Sites and their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3, A-4a and A-4b)

- 8.1 The Sites are:
- (a) located at roadside and at the toe of a natural slope at the southern edge of the “V” zone of Pun Shan Chau village;
 - (b) partly cleared and partly covered with common herbs; and
 - (c) accessible via a local track.
- 8.2 The surrounding areas are predominantly rural in character occupied by some village houses, temporary structures and tree groups. To the south is an extensive woodland area on slope.

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 applications have 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.	<p>Within “V” zone?</p> <p><u>Application No. A/TP/645</u></p> <ul style="list-style-type: none"> - Footprint of the Small House 82.0% - Application site 41.8% <p><u>Application No. A/TP/646</u></p> <ul style="list-style-type: none"> - Footprint of the Small House 72.2% - Application site 36.0% 			<ul style="list-style-type: none"> - The remaining portions of the Sites and the footprints of the Small Houses fall within the “GB” zone.
2.	<p>Within village ‘environs’ (‘VE’)?</p> <ul style="list-style-type: none"> - Footprint of the Small Houses - Application sites 		<p>100%</p> <p>100%</p>	<ul style="list-style-type: none"> - District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications.
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"> - Land required to meet Small House demand: about 3.25 ha (equivalent to 130 Small House sites). The outstanding Small House applications are 10² while the 10-year Small House forecast is 120. - Land available to meet Small House demand within the “V” zone of the village concerned: about 1.8 ha (equivalent to 72 Small House sites).
4.	<p>Compatible with the planning intention of “GB” zone?</p>		✓	<ul style="list-style-type: none"> - There is a general presumption against development within the “GB” zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the applications.

² Among the 10 outstanding Small House applications, there is one Small House application straddling the “V” zone that has already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas are predominantly rural in character mainly occupied by village houses, temporary structures and tree groups.
6.	Within WGGs?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and Emergency Vehicular Access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the applications.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T), in general, has reservation on the applications. Such type of developments should be confined within the “V” zone as far as possible. However, he considers the applications involving development of one Small House on each of the Sites only can be tolerated unless they are rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is recommended.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the proposed developments as they are small in scale and unlikely to cause major pollution.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
12.	Landscape impact?	✓		<p>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the applications from the landscape planning perspective as the proposed developments would require site formation and/or slope works and the remaining green wooded area in the locality would be susceptible to further impact of human activities. Besides, there is vegetation clearance within the Sites prior to submission of the applications. Approval of the applications would set an undesirable precedent to encourage vegetation clearance prior to application.</p> <p>- Should the applications be approved, approval condition on submission and implementation of landscape proposal is recommended.</p>
13.	Geotechnical impact?	✓		<p>- the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the applications.</p> <p>- The applicants should submit the works proposal together with the prescribed plans for site formation works to the Building Authority for approval.</p>
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) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department; and
- (h) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department.

10.3 The following Government departments have no comment on the applications:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) District Officer (Tai Po), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period

On 22.9.2017, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, seven public comments on Application No. A/TP/645 (**Appendix VIa**) and five public comments on Application No. A/TP/646 (**Appendix VIb**) were received from Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong Limited, WWF-HK, Incorporated Owners of Hilltop Garden and individuals raising objection to the applications mainly on the grounds that the proposed developments are not in line with the planning intention of “GB” zone; increase in traffic flow on local tracks; site formation and slope works would have adverse landscape impact; land was available within the “V” zone for Small House development; and setting of undesirable precedent.

12. Planning Considerations and Assessments

- 12.1 The Sites fall partly within “V” zone (42% and 36% for Applications No. A/TP/645 and 646 respectively) and partly within “GB” zone (58% and 64% respectively). The proposed Small House developments are 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 “GB” zone.
- 12.2 The two applications are cross-village Small House applications. According to DLO/TP, LandsD’s record, the total number of outstanding Small House applications for Pun Shan Chau Village is 10 while the 10-year Small House demand forecast is 120. Based on the latest estimate by Planning Department, about 1.80 ha (equivalent to about 72 Small House sites) of land are available within the subject “V” zone. DLO/TP, LandsD has no objection to the applications.
- 12.3 The Sites are located at roadside and at the toe of a natural slope at the southern edge of the “V” zone of Pun Shan Chau village (**Plan A-3**). The proposed developments are not incompatible with the surrounding areas which are predominantly rural in character mainly occupied by village houses, tree groups and temporary structures. The Sites are partly cleared and partly covered with common herbs. Whilst DAFC has no strong view on the applications from the nature conservation point of view, CTP/UD&L of PlanD has some reservations on the applications from the landscape planning perspective as the proposed developments, situated on a sloping ground, would require site formation and/or slope works. As the sites are located adjacent to the edge of existing dense woodland of high landscape value, the remaining green wooded area in the locality would be susceptible to further impact of human activities. Besides, there is vegetation clearance within the Sites prior to submission of the applications. Approval of the applications would set undesirable precedent for encouraging vegetation clearance prior to application. In this regard, the

applications do not comply with the Interim Criteria and TPB PG-No. 10 as the proposed developments would involve vegetation clearance and have adverse landscape impact on the surrounding areas. Besides, C for T, in general, has reservation on the applications as such type of developments should be confined within “V” zone as far as possible but considers that the applications involving development of one Small House on each of the sites only can be tolerated. Other Government departments consulted including CE/MN of DSD, CE/C of WSD, D of FS, H(GEO) of CEDD and CHE/NTE of HyD have no objection to/adverse comment on the applications.

- 12.4 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprints of the proposed Small Houses fall within the “V” zone (**Plan A-1**). While land available within the “V” zone for Small House development (about 1.80 ha or equivalent to about 72 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 10 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. Moreover, the Sites are the subject of two previous applications (No. A/TP/634 and 635) rejected by the Committee mainly on the grounds of having adverse landscape impact on the surrounding areas and land was still available within the “V” zone of Pun Shan Chau Village for Small House development. There has been no change in planning circumstances since the rejection of these previous applications.
- 12.5 There were two similar applications (No. A/TP/437 and 631) covering the same site for a Small House development located to the immediate east of the Sites, which were approved by the Committee. While the former application (No. A/TP/437) was approved in 2009 prior to the adoption of a more cautious approach, the latter application (No. A/TP/631) was approved in 2017 based on sympathetic considerations that the application was the subject of a previous approved case submitted by the same applicant and the processing of the Small House grant was at advanced stage. The circumstances of that case are not similar to the current applications.
- 12.6 Regarding the public comments raising objection to the applications on the grounds of being not in line with the planning intention of “GB” zone; increase in traffic flow on local tracks; site formation and slope works would have adverse landscape impact; land was available within the “V” zone for Small House development; and setting of undesirable precedent, comments from relevant Government departments and planning assessments 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 applications for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “GB” zone for the area which is to define 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;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “Green Belt” zone under section 16 of the Town Planning Ordinance’ in that the proposed development will affect the existing natural landscape. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas;
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Applications for New Territories Exempted House/Small House Development in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas; and
- (d) land is still available within the “V” zone of Pun Shan Chau 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.

13.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until **6.4.2022**, 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 drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (c) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning 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 applications and decide whether to grant or refuse to grant permission.

- 14.2 Should the Committee decide to approve the applications, 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 applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendices Ia and Ib	Application forms and attachments received on 13.2.2018
Appendix Ic	Further Information on site formation plans
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
Drawings A-1a and A-2a	Layout plans submitted by the applicants
Drawings A-1b and A-2b	Landscape proposals submitted by the applicants
Drawings A-1c and A-2c	Proposed site formation plan submitted by the applicants
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
Plans A-3	Aerial photo
Plans A-4a and A-4b	Site photos