

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

**APPLICATION NO. A/TP/655**

<b><u>Applicant</u></b>	Mr. PANG Tin Sung represented by Mr. LAU Chee Sing
<b><u>Site</u></b>	Lots 102 S.A ss.7 and 102 S.A ss.1 S.F in D.D.14, Tung Tsz, Tai Po, New Territories
<b><u>Site Area</u></b>	About 112.3m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
<b><u>Zoning</u></b>	“Green Belt” (“GB”)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Tseng Tau, 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, ‘House (not elsewhere specified)’ use in 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 <sup>2</sup> |
| No. of storeys   | : | 3                    |
| Building height  | : | 8.23m                |
| Roofed over area | : | 65.03m <sup>2</sup>  |
- 1.3 Layout of the proposed Small House development and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively. The uncovered area is proposed to be turfed.
- 1.4 The Site is the subject of three previous applications (No. A/TP/253, 261 and 543). Whilst Applications No. A/TP/253 and 261 for development of six Small Houses submitted by different applicants were rejected by the Committee/the Board on review in 2000 and 2001 respectively, Application

No. A/TP/543 for development of a Small House submitted by the same applicant was approved in 2014 and their details are summarized in paragraph 7 below. When compared with the last approved application (No. A/TP/543), the site boundary, Small House footprint and other development parameters are the same.

- 1.5 In support of the application, the applicant has submitted an application form dated 29.8.2018 with attachment (**Appendix I**) and further information providing a revised layout plan with proposed balcony dated 11.10.2018 (**Appendix Ia**).

## **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 and has submitted a Small House application to Lands Department (LandsD) several years ago;
- (b) the Site falls within an area zoned “GB” and is entirely within the village ‘environs’ (‘VE’) of Tung Tsz Village; and
- (c) the Site is the subject of a previous application (No. A/TP/543) approved by the Board on 17.1.2014. In July 2018, LandsD has prepared the Building Licence for execution by the applicant but the planning permission from the Board already lapsed on 18.1.2018. The applicant seeks the Board’s sympathetic consideration of the application.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria 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 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 site is 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 areas. 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 must comply with the development controls and restrictions of areas designated as water gathering grounds;
- (h) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area;
- (i) 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
- (j) any proposed development on a slope or hillside should not adversely affect slope stability.

## **6. Background**

- 6.1 Prior to 11.9.2009, there were five s.16 planning applications (No. A/TP/189, 214, 253, 261 and 406) and a s.12A rezoning application (No. Z/TP/5) for Small House development on the western side of Tung Tsz Road (**Plan A-2b**). All of them were rejected by the Committee/the Board upon review for reasons of being not in line with the planning intention of the “GB” zone and/or

approval of the application contravened the then planning policy of the Board to confine village expansion to the east of Tung Tsz Road which had been taken as a good physical boundary between the “V” and “GB” zones to the west.

- 6.2 On 11.9.2009, Application No. A/TP/417 for Small House development on the western side of Tung Tsz Road was approved upon review by the Board after considering the special circumstances of the case in that the application site was covered by a Modification of Tenancy (MOT) granted by the LandsD and generally complying with the Interim Criteria in that more than 50% of the Small House footprint was within the ‘VE’ of Tung Tsz and there was a general shortage of land within the “V” zone of the concerned village for Small House development at the time of consideration. The Board requested Planning Department (PlanD) to review whether the “GB” zoning was still appropriate for the area to the west of Tung Tsz Road (“GB review”).
- 6.3 At the meeting on 27.5.2011, the Board noted the findings of the “GB review” conducted by PlanD and agreed to the recommendations to retain the “GB” zoning for the area west of Tung Tsz Road and that Small House development might be permitted in the portion of the “GB” area (shaded Area A shown on **Plan A-2a**) subject to the compliance with the TPB-PG No.10 and the Interim Criteria.

## **7. Previous Applications**

- 7.1 The Site is the subject of three previous applications (No. A/TP/253, 261 and 543) (**Plans A-2a** and **A-2b**). Applications No. A/TP/253 and 261 submitted by different applicants for development of six Small Houses were rejected by the Committee/the Board upon review in 2000 and 2001 respectively on the grounds of being not in line with the planning intention of the “GB” zone and approval of the application would set an undesirable precedent for similar developments within the “GB” zone to the west of Tung Tsz Road.
- 7.2 Since the completion of “GB review” in 2011, Application No. A/TP/543 submitted by the same applicant for the same use with no change to the site boundary, Small House footprint and other development parameters, was approved by the Committee on 17.1.2014 with validity up to 17.1.2018 for the reasons of complying 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 of the concerned village at the time of consideration and the TPB-PG No. 10 in that it would have no adverse impact on the surrounding area. Furthermore, the site was also within the shaded Area A as mentioned in para. 6.3 above (**Plan A-2a**).
- 7.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

## 8. Similar Applications

- 8.1 There are 11 similar applications for Small House development in the vicinity of the Site and within the “GB” zone on Tai Po OZP since the first promulgation of the Interim Criteria on 24.11.2000 (**Plans A-1, A-2a and A-2b**). Besides, two s.16 applications (No. A/TP/189 and 214) and a s.12A rezoning application (No. Z/TP/5) were rejected before the first promulgation of the Interim Criteria in 2000.
- 8.2 Prior to the findings of the “GB review” noted by the Board on 27.5.2011, Application (No. A/TP/406) was rejected in 2008 (**Plan A-2b**) on the grounds of not being in line with the planning intention of the “GB” zone and setting of undesirable precedents. Application No. A/TP/417 was approved with conditions by the Board upon review on 11.9.2009 mainly on the grounds that the site was covered by a MOT granted by LandsD and more than 50% of the proposed Small House footprint was within the ‘VE’ of Tung Tsz and there was general shortage of land within the “V” zone for Small House development at that time.
- 8.3 After the Board noted the findings of the “GB review”, there were seven similar planning applications (No. A/TP/482, 491, 505, 511, 512, 514 and 522) within the portion of the “GB” area (shaded Area A shown on **Plan A-2a**). They were all approved with conditions by the Committee in 2011 and 2012 respectively mainly on the grounds that the applications were in compliance with TPB-PG No. 10 and the Interim Criteria.
- 8.4 Another two applications (No. A/TP/531 and 579) were rejected by the Committee in 2013 and 2015 mainly for the reason of not complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell outside the “V” zone and ‘VE’ of the concerned village (**Plan A-2a**).
- 8.5 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1, A-2a and A-2b**.

## 9. The Site and Its Surrounding Area (**Plans A-1, A-2a** and photos on **Plans A-3 and A-4**)

- 9.1 The Site is:
- (a) a piece of vacant land partly covered by vegetation and bounded by village houses to the north, west and south; and
  - (b) located to the west of Tung Tsz Village separated by Tung Tsz Road.
- 9.2 The surrounding areas are predominantly rural in character with a mix of village houses, vacant land and scattered tree groups. Tung Tsz Road is about 5m to the west. Area to the northwest of the Site is being used for parking of vehicles and a natural stream course and a dense woodland are about 15m to the south.

**10. Planning Intention**

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.

**11. Comments from Relevant Government Departments**

11.1 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	- -	100% 100%	- The Site and proposed Small House footprint fall entirely within the “GB” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- As the Site and the footprint of the proposed Small House fall entirely within ‘VE’, DLO/TP, LandsD has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand in <b>Tung TszTseng Tau</b> (including <del>Tseng Tau and A Shan</del> <b>A Shan and Tung Tsz</b> ) is about 7.05 ha (or equivalent to 282 Small House sites). The outstanding Small House applications are 19 <sup>1</sup> while the 10-year Small House demand forecast for the concerned villages is 263.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the “V” zone of the villages concerned: about 1.2 ha (or equivalent to 48 Small House sites) ( <b>Plan A-2c</b> ).
4.	Compatible with the		✓	- There is a general presumption

<sup>1</sup> Among the 19 outstanding Small House applications, 18 of them within the “V” zone and one straddles the “V” zone. For the concerned application straddling the “V” zone, it has not obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	planning intention of “GB” zone?			<p>against development within the “GB” zone.</p> <p>- The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view as the Site is vacant (<b>Plan A-4</b>).</p>
5.	Compatible with surrounding area/ development?	✓		<p>- The proposed Small House is not incompatible with the surrounding area which is rural in landscape character occupied by village houses, vacant land and scattered tree groups. Cluster of village houses is found in close proximity of the Site.</p>
6.	Within Water Gathering Ground (WGG)?		✓	<p>- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<p>- The Director of Fire Services (D of FS) has no in-principle objection to the application.</p>
9.	Traffic impact?		✓	<p>- The Commissioner for Transport (C for T) has general reservation on the application. However, he considers that the application only involving development of a Small House can be tolerated.</p>
10.	Drainage impact?	✓		<p>- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application.</p> <p>- An approval condition on</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the application. The Site is outside the WGG and the applicant proposed to connect the subject Small House to public sewer at Tung Tsz. Sewer connection is technically feasible and capacity is available.
12.	Landscape impact?		✓	- The 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 as the Site is vacant with bare ground and no existing tree and adverse impact on landscape resources is not anticipated.  - Since the proposed Small House footprint covers most of the Site, there is inadequate space for landscaping within the Site. Should the application be approved, the standard condition for submission and implementation of landscaping proposal is not recommended.
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

11.2 Comments from the following Government departments have been incorporated in paragraph 11.1 above. Other detailed comments are at **Appendix V**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Director of Environmental Protection;
- (c) Chief Town Planner/Urban Design and Landscape, Planning

Department;

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

11.3 The following Government departments have no comment on / no objection to 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; and
- (d) District Officer/Tai Po, Home Affairs Department; and
- (e) Director of Electrical and Mechanical Services.

## 12. Public Comment Received During Statutory Publication Period

On 7.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## 13. Planning Considerations and Assessments

- 13.1 The Site falls entirely within the “GB” zone (**Plan A-2a**). The proposed development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within the “GB” zone. Nonetheless, DAFC has no strong view on the application from nature conservation point of view as the Site is vacant.
- 13.2 According to the DLO/TP, LandsD’s records, the total number of outstanding Small House applications for ~~Tung TszTseng Tau~~ (including ~~Tseng Tau and A-Shan~~ **A-Shan and Tung Tsz**) is 19 while the 10-year Small House demand forecast is 263. Based on the latest estimate by the Planning Department, about 1.2 ha (or equivalent to about 48 Small House sites) of land are available within the “V” zones of the concerned villages. As the footprint of the proposed Small House falls entirely within the ‘VE’ of the concerned village, DLO/TP, LandsD has no objection to the application.
- 13.3 The Site currently vacant and partly covered by vegetation is located to the west of Tung Tsz Village separated by Tung Tsz Road and bounded by existing village houses (**Plans A-2a and A-4**). The proposed development is not incompatible with the surrounding area which is predominantly rural in character with existing Small Houses in the north, west and south (**Plan A-3**).

CTP/UD&L of PlanD has no objection to the application from landscape planning point of view as adverse impact on landscape resources from the proposed development is not anticipated.

- 13.4 CE/MN, DSD advises that the Site is within an area where connections to existing sewerage networks are available in the vicinity (**Plan A-2a**) and the applicant has proposed to connect the proposed Small House to the existing public sewerage system in the vicinity (**Drawing A-2** and **Plan A-2a**). DEP also advises that sewer connection is technically feasible and capacity is available. Besides, C for T has general reservation on the application as such development should be confined within “V” zone as far as possible but considers that the application involving development of a Small House only can be tolerated. Other relevant Government departments including CHE/NTE of HyD, PM(N) and H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application.
- 13.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Tung Tsz. While land available within the “V” zone (about 1.2 ha or equivalent to about 48 Small House sites) is insufficient to fully meet the future Small House demand, it is capable to meet the 19 outstanding Small House applications (**Plan A-2b**). It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, it is considered more appropriate to concentrate the proposed Small House 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 previously approved application (No. A/TP/543) submitted by the same applicant with no change to the site boundary, footprint and other development parameters of the proposed Small House. Moreover, LandsD has approved the Small House grant application in June 2017 and is preparing to issue the Building Licence for the subject Small House development. As the planning permission lapsed on 18.1.2018, the applicant is required to submit a fresh application. In view of the Small House application is in an advance stage, special consideration could be given to the current application.
- 13.6 There are 11 similar applications located in close vicinity of the Site (**Plan A-2a**). Since the findings of the “GB review” were noted by the Board on 27.5.2011, seven applications (No. A/TP/482, 491, 505, 511, 512, 514 and 522) within the same portion of the “GB” area (i.e. shaded Area A on **Plan A-2a**) were approved with conditions by the Committee in 2011 and 2012 respectively mainly for the reasons of complying with the Interim Criteria in that there was general shortage of land in meeting the demand for Small House development in the “V” zone of the concerned village at the time of consideration and the TPB-PG No. 10 in that it would have no adverse impact on the surrounding area. Two applications (No. A/TP/531 and 579) were rejected by the Committee in 2013 and 2015 mainly for the reason of being not in line with the Interim Criteria in that more than 50% of the proposed Small

House footprint fell outside the “V” zone and ‘VE’ of the concerned village.

13.7 No public comment on the application was received.

#### **14. Planning Department’s Views**

14.1 Based on the assessments made in paragraph 13, the Planning Department has no objection to the application.

14.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **19.10.2022**, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

##### Approval Condition

- 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 VI**.

14.3 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 “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 to justify a departure from the planning intention; and
- (b) land is still available within the “V” zones of Tung Tsz, Tseng Tau and A Shan 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.

#### **15. Decision Sought**

15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

15.2 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.

- 15.3 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.

**16. Attachments**

Appendix I	Application form and attachment received on 29.8.2018
Appendix Ia	Further information received on 11.10.2018
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout plan submitted by the applicant
Drawing A-2	Sewerage connection proposal submitted by the applicant
Plan A-1	Location plan
Plans A-2a and A-2b	Site plan
Plan A-2c	Estimated amount of land available for Small House development within "V" zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2018**