

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/363

- Applicant** : Li Kim Wing with Chan Chung Hong as the Power of Attorney
- Site** : Lots 190 S.D ss.2 and 190 S.Q in D.D.130, San Hing Tsuen, Lam Tei, Tuen Mun, New Territories
- Site Area** : 124.6m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lam Tei and Yick Yuen Outline Zoning Plan (OZP) No. S/TM-LTYYY/10
- Zoning** : “Residential (Group E)” (“R(E)”) [restricted to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m) except ‘New Territories Exempted House’]
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, who claims to be an indigenous villager of So Kwun Wat, seeks planning permissions to build a proposed NTEH (Small House) on the application site (the Site) (**Plan A-1**). The Site is currently vacant with some vegetation.
- 1.2 According to the Schedule I of the Notes for the “R(E)” zone of the approved Lam Tei and Yick Yuen OZP No. S/TM-LTYYY/10 (the OZP), ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.3 Details of the proposed Small House development are as follows:

Total Floor Area	: 195.09m ²
Number of storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m

The lot index plan, proposed building license plan, recognised village environs boundary plan and the storm drainage proposals are shown on **Drawings A-1 to A-5** respectively.

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

- (a) Application Form and attachments received on 19.11.2018 **(Appendix I)**
- (b) E-mail of 5.3.2019 submitting a drainage proposal **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) E-mail of 8.4.2019 providing minor clarification on **(Appendix Ib)**
indigenous villager status of the applicant
(accepted and exempted from publication and recounting requirements)

1.5 On 18.1.2019, the Committee agreed to the applicant's request to defer making a decision on the application for two months so as to allow time for preparation of further information to resolve departmental comments. Further information was received on 6.3.2019. Therefore, the application is submitted to the Committee for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I** (Part 9 of the application form). They can be summarised as follows:

The Site is within the recognised village environs ('VE'). According to the Schedule I of the Notes for the "R(E)" zone, 'House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)' is a Column 2 use which requires planning permission from the Board.

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 New Territories Exempted House/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 respectively. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Application

There is no previous application for NTEH/Small House development at the Site.

7. Similar Applications

- 7.1 There are nine similar applications for NTEH/Small House within the same “R(E)” zone. Details of the applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.
- 7.2 Application No. A/TM-LTY Y/204 for three proposed Small Houses was rejected by the Committee on 29.10.2010. The rejection reasons were that the proposed NTEHs/Small Houses did not comply with the Interim Criteria in that over 50% of each of the footprints of the proposed Small House fell outside both the ‘VE’ and “V” zone and there were no exceptional circumstances to warrant approval of the application.
- 7.3 Application No. A/TM-LTY Y/238 for proposed Small House was rejected by the Board on review on 16.11.2012. The rejection reasons were incompliance with the Interim Criteria in that there was no shortage of land within the “V” zone for Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen to meet the demand forecast for Small House development, failure to demonstrate no adverse drainage, sewerage and landscape impacts, and no exceptional circumstances to warrant approval of the application.
- 7.4 Applications No. A/TM-LTY Y/283, 284 and 285 for one proposed Small House at each application site were approved by the Committee on 12.12.2014. The major considerations were in line with planning intention, compliance with the Interim Criteria, not incompatible with the surrounding uses and no objection from Government departments.
- 7.5 Applications No. A/TM-LTY Y/301, 307, 335 and 336 for one proposed Small House at each of the site were approved by the Committee on 30.9.2016, 18.3.2016, 11.8.2017 and 11.8.2017 respectively on similar considerations. Major considerations were in line with planning intention, unlikely be subject to potential industrial/residential interface problems, not incompatible with surrounding low-rise developments, compliance with the Interim Criteria and no objection/adverse comments from Government departments. One of the considerations for Application No. A/TM-LTY Y/307, which was the subject of the previously rejected Application No. A/TM-LTY Y/238 (see paragraph 7.3 above), was sympathetic consideration in view of the general shortage of land in the concerned “Village Type Development” (“V”) zone to meet the long term Small House demand.
- 7.6 For Members’ information, Application No. A/TM-LTY Y/362 for the same use, which partly falls within the same “R(E)” zone and partly within the adjacent “V” zone on the OZP will also be considered at this meeting (**Plan A-1**).

8. The Site and Its Surrounding Areas (Plans A-1 to A-4)

8.1 The Site is:

- (a) currently vacant with some vegetation;
- (b) located within the common ‘VE’ of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen in Lam Tei, Tuen Mun which are recognised villages; and
- (c) accessible by a footpath/village access road branched off from Ng Lau Road.

8.2 The surrounding areas have the following characteristics (**Plan A-2a**):

- (a) to the east of the Site is a proposed house (NTEH - Small House) under application No. A/TM-LTYT/301 approved by the Committee on 30.9.2016. To the further east of the Site are land for parking of vehicles which are suspected unauthorised developments (UDs) and village-type houses;
- (b) to the south are vacant land and village-type houses;
- (c) to the west are temporary structures for residential dwellings purposes; and
- (d) to the immediate north are land for parking of vehicles and temporary structures for storage, which are suspected UD. To the further north of the Site are land for parking of vehicles, a car repairing workshop and yards for open storage, which are suspected UD.

9. Planning Intention

The planning intention of the “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Town Planning Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

10. Comments from Relevant Government Departments

10.1 The application has been assessed against the Interim Criteria at **Appendix II**. As the Site falls within a common ‘VE’ of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen, the demand of Small Houses and supply of Small House sites are assessed collectively.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			
-	Footprint of the Small House		✓ (100%)	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	- Application Site		✓ (100%)	
2.	Within 'VE'?			- The Site falls within the common 'VE' of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen (the three villages) (Plan A-2a).
	- Footprint of the Small House	✓ (100%)		
	- Application Site	✓ (100%)		
3.	Sufficient land in "V" zone to satisfy 10-year Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	- Land required to meet Small House demand is <u>about 25.3 ha (equivalent to about 1,012 Small House sites)</u> . The outstanding Small House applications for the three villages are 150 (i.e. about 3.75 ha of land), while the 10-year Small House demand forecast for the three villages is 862 houses (i.e. about 21.55 ha of land).
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the "V" zone covering the three villages: about 21.53 ha (or equivalent to about 861 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of "R(E)" zone?	✓		- The "R(E)" zone is primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board.
5.	Compatible with surrounding area / development?	✓		- The surrounding areas are predominantly rural in character, occupied mostly by low-rise village type developments/ temporary structures for dwelling purposes (Plan A-2a).
6.	Within Water Gathering Ground (WGG)?		✓	- The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application. The Site is not located within water gathering ground.
7.	Encroachment onto the planned road networks		✓	- The Commissioner for Transport (C for T) advises that there is no

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	and public works boundaries?			<p>planned road project under the Transport Department’s purview at the Site.</p> <ul style="list-style-type: none"> - The Chief Engineer/Housing Project 2, Civil Engineering and Development Department (CE/HP2, CEDD) advises that his consultant is currently carrying out a study under Agreement No. CE 68/2017 (CE) – Site Formation and Infrastructural Works Development at San Hing Road and Hong Po Road, Tuen Mun – Feasibility Study. According to the latest layout plan extracted from the consultancy brief, the proposed house application is found locating adjacent to the north boundary of the proposed San Hing Road housing development site. However, the exact boundary, phasing of development and land requirement are still under refinement by the consultant to be agreed by the Housing Department, the Lands Department and other government departments concerned. - The Director of Housing (D of Housing) has no comment on the application. - DLO/TM advises that pursuant to the prevailing guidelines, any land that is within 30 metres from known resumption/clearance limits is “prohibited areas”. Having checked his records, the Site was situated at close vicinity (within 30m) to the northeast corner of the proposed San Hing Road development site. According to CE/HP2 of CEDD, the exact site boundary, phasing of development and land requirement are still under refinement by CEDD. His office may consider to process the Small House application subject to no adverse comments received from CEDD and other concerned government departments.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
8.	Need for provision of fire services installations (FSIs) and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no specific comments on the application. The applicant is advised to observe 'New Territories Exempted Houses – A Guide to fire safety requirements published by the Lands Department.
9.	Traffic impact?		✓	- C for T has no comment on the application from traffic engineering viewpoints.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department has no in-principle objection to the application.
11.	Sewerage impact?		✓	- Director of Environmental Protection advises that there is no public sewer serving the Site. He notes that there is a concreted and mostly covered drainage channel within the Site. The applicant is reminded to properly treat and dispose of any sewage and wastewater arising in accordance with the Water Pollution Control Ordinance. Meanwhile, he has no specific comment on the proposed use of septic tank and soakaway pit system for collection, treatment and disposal of the sewage provided that the design and construction follow the requirements of the ProPECC PN5/93 namely "Drainage Plans subject to Comments by the Environmental Protection Department" and are duly certified by an Authorized Person.
12.	Landscape impact?		✓	- CTP/UD&L, PlanD advises that with reference to the aerial photo of 2018, it is observed that the Site is partly vegetated with trees and partly vacant. In view of existing village houses in the vicinity, significant change to the landscape character arising due to the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				application is not envisaged.
13.	Local objections conveyed by DO?		✓	- DO(TM), HAD advises that he has distributed consultation letters to the locals concerned and understand that they would provide their comments (if any) to the Board direct. (Public comments received during the statutory publication period are at Appendices V-1 to V-2 , see also paragraph 11 below.)
15.	Others	-	-	Executive Secretary (Antiquities and Monument Office), Antiquities and Monument Office (ES (A&M), AMO) advises that the Site falls within San Hing Tsuen Site of Archaeological Interest. In view of the location and scope of the proposed works, the applicant is required to notify AMO two weeks prior to the commencement of construction work so as to facilitate his staff to conduct site inspection in the course of excavation.

10.2 Comments of the following government departments have been incorporated in the above paragraphs. Detailed comments from government departments are at **Appendix IV**.

- (a) District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Commissioner for Transport (C for T);
- (d) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (e) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (f) District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD);
- (g) Director of Environmental Protection (DEP);
- (h) Director of Fire Services (D of FS);
- (i) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (j) Director of Agriculture, Fisheries and Conservation (DAFC);
- (k) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (l) Executive Secretary (Antiquities and Monument Office), Antiquities and Monument Office (ES (A&M), AMO); and

- (m) Chief Engineer/Housing Project 2, Civil Engineering and Development Department (CE/HP2, CEDD).

10.3 The following government departments have no comment on the application.

- (a) Director of Housing (D of Housing);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (f) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (g) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 27.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 18.12.2018, two public comments were received. A member of the Tuen Mun District Council supported the application without giving specific reason (**Appendix V-1**). An individual objects to the application on the grounds that hundreds of hectares of land have been set aside for village type development, and it is unacceptable that the ding right be extended to sites zoned to serve the rest of the population. These sites could be amalgamated with others to provide a block of low rise units (**Appendix V-2**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed house (NTEH – Small House) at the Site which falls wholly within an area zoned “R(E)” on the OZP. The “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. The proposed Small House development is generally in line with the planning intention of the “R(E)” zone. The proposed Small House is mainly surrounded by existing village-type houses/temporary structures for dwelling purposes and vacant land. Furthermore, DEP has no objection to the application and advises that the proposed development is not anticipated to be subject to adverse environmental impact. In this regard, the proposed Small House will unlikely be susceptible to industrial/residential interface problems.
- 12.2 The Site is mainly surrounded by village type houses in the east and west and parking of vehicles and vacant land to the north and south respectively. The proposed development is not incompatible with the low-rise developments in the surrounding areas. Besides, the Site is located in close proximity to the “V” zone of San Hing Tsuen and the existing cluster of village houses (**Plan A-2a**).
- 12.3 According to the Interim Criteria (**Appendix II**), sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the ‘VE’ of a recognised village and there is a general shortage of land in meeting the demand for Small House development in the “V” zone of the village. The Site and the footprint of the proposed Small House fall wholly within the common ‘VE’ of Tsing

Chuen Wai, Tuen Tsz Wai and San Hing Tsuen (**Plan A-2a**). Moreover, DLO/TM advised that according to the current policy, such Small House application can be considered subject to obtaining planning approval.

- 12.4 This is a cross-village Small House application. According to the DLO/TM, LandsD's record, the total number of outstanding Small House applications of the three villages is 150 (i.e. about 3.75 ha of land) while the 10-year forecast of Small House demand of the three villages is 862 houses (i.e. about 21.55 ha of land) (i.e. a total of 1,012 houses or about 25.3 ha of land). From the latest estimate by PlanD, about 861 Small House sites (equivalent to about 21.53 ha of land) are available within the "V" zone covering the three villages. Whilst the land within the concerned "V" zone can accommodate the outstanding Small House applications of 150 houses, there is insufficient land to meet the forecasted long-term Small House demand. It should be noted that the Board has adopted a 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 orderly development pattern, efficient use of land and provision of infrastructures and services. However, the Site is zoned "R(E)". The "R(E)" zone is a development zone subject to a maximum plot ratio of 1.0, a maximum site coverage of 40% and a maximum building height of 4 storeys over single-storey car park (15m) except 'NTEH' and intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Taking into account that the proposed Small House development is generally in line with the planning intention of the "R(E)" zone and will unlikely be susceptible to industrial/residential interface problems, sympathetic consideration may be given to the current application.
- 12.5 There are seven similar applications approved within the same "R(E)" zone. Moreover, the Site is located immediately to the west of a proposed house (NTEH - Small House) under application No. A/TM-LTY/301 approved by the Committee on 30.9.2016. Approval of the current application is in line with the Committee's previous decisions.
- 12.6 Relevant government departments have no adverse comment on the application. Their technical requirements could be addressed by imposing approval conditions (see paragraph 13.2 below).
- 12.7 Two public comments were received during the statutory publication period. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are also 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 3.5.2023, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the 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; and
- (b) 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 at **Appendix VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for the rejection is suggested for Member's reference:

land is still available within the "V" zone of Tsing Chuen Wai, Tuen Tsz Wai and San Hing Tsuen where land is primarily intended for Small House development. It is considered more appropriate to concentrate Small House development close to the existing village cluster within the "V" zone for 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 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 and attachments received on 19.11.2018
Appendix Ia	E-mail of 5.3.2019 submitting a drainage proposal
Appendix Ib	E-mail of 8.4.2019 providing minor clarification on indigenous villager status of the applicant
Appendix II	Extract of the Interim Criteria for Consideration of Application for New Territories Exempted House (NTEH)/Small House in New Territories
Appendix III	Similar s.16 Applications within the same "R(E)" zone on the approved Lam Tei and Yick Yuen Outline Zoning Plan No.

Appendix IV	S/TM-LTTY/10
Appendices V-1 and V-2	Detailed Comments of Government Department Concerned Public Comments Received During Statutory Publication Period
Appendix VI	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Proposed Building License Plan
Drawing A-3	Recognised Village Environs Boundary Plan
Drawings A-4 and A-5	Storm Drainage Proposal
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the "V" Zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MAY 2019**