

RNTPC Paper No. A/YL-PH/798
For Consideration by the
Rural and New Town Planning
Committee on 18.1.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/798

- Applicant** : 鄧亦佃 represented by 鄧玉輝
- Site** : Lot 2961 RP (Part) in D.D. 111, Lo Uk Tsuen, Pat Heung, Yuen Long
- Site Area** : About 380m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : "Residential (Group D)" ("R(D)")
[restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m) except New Territories Exempted House (NTEH)]
- Application** : Proposed House (New Territories Exempted House – Small House)

1. The Proposal

- 1.1 The applicant seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Lo Uk Tsuen, Pat Heung. As indicated by the applicant, he is an indigenous villager of Wang Toi Shan¹. According to the Notes of the OZP, 'House (not elsewhere specified)' in "R(D)" zone requires planning permission from the Town Planning Board (the Board). The Site is not the subject of any previous application and is currently used for open storage of vehicles for sale (Plans A-2a and A-4).
- 1.2 Layout of the proposed house is at Drawing A-1 and the major development parameters are as follows:

¹ As advised by the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD), the indigenous villager's status and eligibility of the applicant has not yet been verified.

Covered Area	: 65.03 m ²
Total Gross Floor Area	: 195.09 m ²
Number of Storeys	: 3
Building Height	: 8.23m

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

(a) Application form with planning statement and plans (Appendix I)
received on 21.11.2018

(b) Further Information (FI) received on 3.1.2019 (Appendix Ia)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement and FI in Appendices I and Ia. They can be summarized as follows:

- (a) Wang Toi Shan is a recognized village according to the Lands Department and indigenous villagers are entitled to construct NTEHs in the village. There are also similar applications within "R(D)" zone in Yuen Long and Sai Kung approved by the Board.
- (b) The Site is the only land owned by the applicant's relative and falls within "R(D)" zone which requires planning permission from the Board. The applicant promises to transfer the ownership of the Site immediately once the application is approved.
- (c) The Site is located within Small House cluster and no adverse impact on the environment is anticipated. The Site is accessible by emergency vehicular access. Appropriate drainage facilities, fire service installations (FSIs) and landscaping will be provided.
- (d) The surrounding area is mainly occupied by vehicle yards and storage which is not compatible with the zoning. The current application will help to transform the area to the planned residential area.
- (e) To minimize noise impact, measures such as double-glazed window and solid boundary wall will be provided.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the "current land owner(s)". Detailed information would be deposited at the meeting for Members' inspection.

4. Assessment Criteria

The latest set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria), which was promulgated on 7.9.2007, is at **Appendix II**.

5. Background

The Site is not involved in any enforcement case.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Application

7.1 There is one similar application for house (NTEH - Small House) (Application No. A/YL-PH/540), which partly falls within the same "R(D)" zone and partly within the adjacent "Village Type Development" ("V") zone, approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board. Details of the application is at **Appendix III** and its location is shown on **Plan A-1**.

7.2 Application No. A/YL-PH/540 was approved with conditions by the Committee on 11.5.2007 mainly for the reasons that the proposed development generally complies with the Interim Criteria in that it fell within 'Village Environ' ('VE') of Wang Toi Shan and 77% of the NTEH footprint fell within "V" zone; not incompatible with the surrounding areas; and no adverse comment from relevant departments.

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

8.1 The Site is:

- (a) paved, fenced and currently used as open storage for vehicles for sale;
- (b) not within the 'VE' of any recognized village; and
- (c) accessible from Kam Tin Road.

8.2 The surrounding area is predominantly rural in nature with residential dwellings/structures, open storage yards, workshops, a film studio and a plant nursery, with the following characteristics:

- (a) to its north and northwest within the "V" zone are mainly residential dwellings/structures. To its further north and west are open storage yards;

- (b) to its east within the "R(D)" zone are mainly open storage/storage yards, car servicing, a canteen and a vehicle repair workshop; and
- (c) to its south across Kam Tin Road are open storage yards, vehicle repair workshops, a plant nursery and a film studio.

9. **Planning Intention**

The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. **Comments from Relevant Government Departments**

- 10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within "V" zone? - Footprint of the proposed Small House - Application site	--	100%	- The Site and footprint of the proposed Small House fall entirely within "R(D)" zone.
2.	Within 'VE'? - Footprint of the proposed Small House - Application site	--	100%	- DLO/YL, LandsD has advised that the Site does not fall within any 'VE' of any recognized village.
3.	Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang (the Villages): about 43.5ha (equivalent to about 1,740 Small House sites). The outstanding Small House applications for the Villages are 80 while the 10-year Small House demand forecast for the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in "V" zone to meet outstanding Small House applications?	✓		Villages is about 1,660. - Land available to meet the Small House demand within the "V" zone of the Villages: about 32.2ha (equivalent to about 1,287 Small House sites) (Plans A-2b and 2c).
4.	In line with the planning intention of "R(D)" zone?	✓		
5.	Compatible with surrounding area/development?	✓		- The Site is located in an area predominantly rural in nature with residential dwellings/structures on the north within the "V" zone.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of FSI and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no specific comment on the application. The applicant is advised to observe "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD.
9.	Local objections received?		✓	- The District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) has no comment on the application. Public comments received during the statutory publication period are set out in paragraph 11 below.
10.	Others		✓	- Detailed comments of Government departments are at Appendix IV.

10.2 Comments from the following Government departments have been incorporated in paragraph 10.1 above. Their other detailed comments, if any, are at **Appendix IV**.

- (a) DLO/YL, LandsD;
- (b) Director of Environmental Protection (DEP);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Commissioner for Transport (C for T);
- (f) D of FS;
- (g) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (h) Director of Agricultural, Fisheries and Conservation (DAFC);
- (i) Director of Electrical and Mechanical Services (DEMS); and
- (j) DO(YL), HAD.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager (West), West Development Office, Civil Engineering and Development Department (PM(W), CEDD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 30.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 21.12.2018, a total of 2 public comments on the application from individuals were received (**Appendices V-1 and V-2**). The two commenters object the application mainly on the grounds that the proposed house development is not within "V" zone and is not a re-development of pre-existing building. It is unacceptable that the "Ding" right be extended to sites zoned to serve the rest of the population; and Small House development is inequitable and inefficient land use.

12. Planning Considerations and Assessments

12.1 The application is for proposed house (NTEH – Small House) at the Site zoned "R(D)". The planning intention of "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and also for low-rise, low-density residential developments subject to planning permission from the Board. The proposed Small House development which will phase out existing open storage use at the Site is generally in line with the planning intention of the "R(D)" zone.

- 12.2 According to DLO/YL, LandsD, the total number of outstanding Small House applications for Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang is 80. As provided by the Indigenous Inhabitant Representatives of the villages, the 10-year Small House demand forecast for these villages is about 1,660. Based on the latest estimate by PlanD, about 32.2ha (or equivalent to about 1,287 Small House sites) of land is available within the "V" zone. There is sufficient land available within the "V" zone to meet the outstanding Small House applications but cannot fully meet the 10-year Small House demand of the concerned villages (Plans A-2b and 2c).
- 12.3 The application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House does not fall within the 'VE' of any recognized village. According to the Interim Criteria, development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved except under very exceptional circumstances. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. There is no exceptional circumstance to justify approval of the application.
- 12.4 The government departments consulted, including C for T and D of FS, have no adverse comment on or no objection to the application.
- 12.5 A similar application (No. A/YL-PH/540) straddling the same "R(D)" zone and adjoining "V" zone was approved with conditions by the Committee in 2007 mainly for the reason that the proposed development was in line with the Interim Criteria as it fell entirely within the 'VE' of Wang Toi Shan and about 77% of the proposed NTEH footprint falls within the "V" zone (Plan A-1). It is different from the current application with the Site and the footprint of the proposed Small House entirely falling outside "V" zone and 'VE'.
- 12.6 Two public comments were received during the public inspection period raising objection mainly on grounds of extension of Small House development in "R(D)" zone. In this regard, the planning considerations and assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, Planning Department does not support the application for the following reason:

the application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House falls entirely outside the 'VE' of any recognized village and the "V" zone. Land is still available within the "V" zone of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang, where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the "V" zone for a more orderly development pattern, efficient use of land and

provision of infrastructure and services. There is no exceptional circumstance to justify approval of the application.

- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.1.2023, 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 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 the permissions.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with Planning Statement and Plans Received on 21.11.2018
Appendix Ia	Further Information Received on 3.1.2019 in Response to Departmental Comments
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories
Appendix III	Similar Application for Proposed House (NTEH - Small House) within the Same "R(D)" Zone on the Pat Heung OZP

Appendix IV	Detailed Comments from Relevant Government Departments
Appendices V-1 and V-2	Public Comments Received during the Statutory Publication Period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	EVA Plan
Drawing A-3	FSIs Proposal
Plan A-1	Location Plan with Similar Application
Plan A-2a	Site Plan
Plans A-2b and 2c	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
JANUARY 2019

**Relevant Interim Criteria for Assessing Planning Applications for
NTEH/Small House Development in the New Territories
(Revised on 7.9.2007)**

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;

- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
 - (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
 - (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development[^]);
 - (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with relevant standards; and
 - (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.
- [^]i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

**Similar Application for New Territories Exempted House (NTEH)/Small House
within the Same "R(D)" Zone on Pat Heung Outline Zoning Plan
 (after the first promulgation of the Interim Criteria in 24.11.2000)**

	<u>Application No.</u>	<u>Proposed Use(s)/Development(s)</u>	<u>Date of Consideration By RNTPC/TPB</u>	<u>Approval Condition(s)</u>
1.	A/YL-PH/540	House (NTEH / Small House)*	11.5.2007 (Approved with conditions)	(a)

* Straddled both "R(D)" and "V" zones

Approval Condition(s)

- (a) The submission and implementation of landscape proposal.

1000

Detailed Comments from the Relevant Government Departments

Land Administration

1. Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site is an Old Schedule Agricultural Lot held under the Block Government Lease.
 - (b) According to the Approved Pat Heung OZP No. S/YL-PH/11, the villages (i.e.: Wang Toi Shan and Lo Uk Tsuen) fall within the "V" zone on the OZP. However, Wang Toi Shan Shan Tsuen, Wing Ning Lei, Ho Lik Pui and Yau Uk Tsuen are not on the list of recognized villages.
 - (c) The Site does not fall within any Village Environs Boundary (VEB) of a recognized village.
 - (d) According to his records, his office did not receive any Small House (SH) application on the Site from the applicant of the S.16 application. The indigenous villager's status and eligibility of the applicant has not yet been verified. Under normal procedure, when SH applications are received and due for processing, DLO/YL will consider the applications acting in the capacity as the landlord at its sole discretion in accordance with the New Territories (NT) SH policy, including verification of the SH applicants' statuses. There is no guarantee that such applications would be approved.
 - (e) According to his records, the Site is covered by Short Term Waiver for the purpose of trading and storage of vehicles and vehicle parts.
 - (f) The numbers of outstanding and approved Small House applications are 46 and 49 for Wang Toi Shan, 13 and 5 for Lo Uk Tsuen, 4 and 3 for Leung Uk Tsuen, and 17 and 7 for Chuk Hang respectively.
 - (g) The 10-year forecast of Small House demand is 1,000 for Wang Toi Shan (2018-2027), 150 for Lo Uk Tsuen (2017-2026), 30 for Leung Uk Tsuen (2018-2027) and 480 for Chuk Hang (2018-2027). The 10-year forecast is provided by the Indigenous Inhabitant Representative of the respective villages and DLO/YL is unable to verify such information.
 - (h) If a proposed Small House site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned Small House application will be rejected under the NT SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission.

- (i) Given that the Site neither falls within any VEB of a recognized village nor "V" zone which encircles recognized villages, even the planning approval is given by the Board, the concerned SH application would be rejected under the NT SH policy.

Nature Conservation

- 2. Comments of the Director of Agriculture, Fisheries, and Conservation (DAFC):

Noting that the Site is located in "R(D)" zone and is adjacent to Kam Tin Road, he has no comment on the application from nature conservation point of view.

Environment

- 3. Comments of the Director of Environmental Protection (DEP):

- (a) In view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the EPD" and are duly certified by an Authorized Person (AP).
- (b) The applicant is reminded to duly address the potential noise impacts through the provision of suitable mitigation measures to ensure compliance with the relevant planning standards and statutory requirements.

Drainage

- 4. Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the applicant (i) to submit a drainage proposal and (ii) to implement the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board should be included.

Traffic

- 5. Comments of the Commissioner for Transport (C for T):

Considering there is neither parking provision nor vehicular access to the lot and the induced traffic is minimal, he has no comment on the application.

6. Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):
- (a) HyD does not and will not maintain the accesses connecting the Site and Kam Tin Road.
 - (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Fire Safety

7. Comments of the Director of Fire Services (D of FS):
- (a) He has no specific comment on the application.
 - (b) The applicant is reminded to follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" published by LandsD.

Building Matters

8. Comments of the Chief Building Surveyor/NTW, Buildings Department (CBS/NTW, BD):
- (a) Noting that the building to be erected on the Sites will be NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/YL should be in a better position to comment on the application.
 - (b) In case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person (AP) should be appointed as the coordinator for the proposed works. The applicant may approach DLO/YL or seek AP's advice for details.

Electricity

9. Comments of the Director of Electrical and Mechanical Services (DEMS):
- (a) He has no particular comment on the application from electricity supply safety aspect.
 - (b) In the interest of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/ or overhead line within and/ or in the vicinity of the Site. The applicant should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation

when carrying out works in the vicinity of the electricity supply lines.

District Officer's Comments

10. Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has not received any comments from locals upon close of consultation and he has no particular comment on the application.

Demand and Supply of Small House Sites

11. According to the DLO/YL's latest records, the total number of outstanding Small House applications of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang is 80 (i.e. equivalent to 2ha), while the 10-year Small House demand forecast for Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang is 1,660 (i.e. equivalent to 41.5ha). According to the latest estimate by PlanD, about 32.2ha (equivalent to about 1,287 Small House sites) of land is available within the "V" zone to meet the demand of Small Houses.

Advisory Clauses

- (a) resolve any land issue relating to the development with other concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that The Site is an Old Schedule Agricultural Lot held under the Block Government Lease. The Site does not fall within any VEB of a recognized village. Under normal procedure, when SH applications are received and due for processing, DLO/YL will consider the applications acting in the capacity as the landlord at its sole discretion in accordance with the New Territories SH policy, including verification of the SH applicants' statuses. There is no guarantee that such applications would be approved. If a proposed Small House site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned Small House application will be rejected under the NT SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. Given that the Site neither falls within any VEB of a recognized village nor "V" zone which encircles recognized villages, even the planning approval is given by the Board, the concerned SH application would be rejected under the NT SH policy;
- (c) note DEP's comments that in view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the EPD" and are duly certified by an Authorized Person (AP). The applicant is reminded to duly address the potential noise impacts through the provision of suitable mitigation measures to ensure compliance with the relevant planning standards and statutory requirements;
- (d) note CHE/NTW, HyD's comments that HyD does not and will not maintain the accesses connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note D of FS's comments that the applicant should follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" issued by LandsD;
- (f) note CBS/NTW, BD's comments that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an AP should be appointed as the coordinator for the proposed works. The applicants may approach DLO/YL or seek AP's advice for details; and

- (g) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the mentioned application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/ or overhead line within and/ or in the vicinity of the Sites. Applicants should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

TOWN PLANNING BOARD

Minutes of 619th Meeting of the
Rural and New Town Planning Committee held at 2:30 p.m. on 18.1.2019

Present

Director of Planning
Mr Raymond K.W. Lee

Chairman

Dr F.C. Chan

Mr David Y.T. Lui

Mr Peter K.T. Yuen

Mr K.K. Cheung

Dr C.H. Hau

Miss Winnie W.M. Ng

Mr K.W. Leung

Dr Jeanne C.Y. Ng

Mr Ricky W.Y. Yu

Chief Traffic Engineer/New Territories West,
Transport Department
Mr Patrick K.H. Ho

Chief Engineer (Works), Home Affairs Department
Mr Martin W.C. Kwan

Agenda Item 27

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-PH/798 Proposed House (New Territories Exempted House - Small House) in
"Residential (Group D)" Zone, Lot 2961 RP (Part) in D.D. 111, Lo Uk
Tsuen, Pat Heung, Yuen Long
(RNTPC Paper No. A/YL-PH/798)

Presentation and Question Sessions

115. Ms Ivy C.W. Wong, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper :

- (a) background to the application;
- (b) the proposed house (New Territories Exempted House - Small House);
- (c) departmental comments – departmental comments were set out in paragraph 10 and Appendix II of the Paper. Concerned government departments had no objection to or no adverse comment on the application;
- (d) during the first three weeks of the statutory publication period, two public comments objecting to the application were received. The major objection grounds were set out in paragraph 11 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. The proposed Small House development was generally in line with the

planning intention of the “Residential (Group D)” (“R(D)”) zone. Based on the latest estimate by PlanD, there was sufficient land available within the “Village Type Development” (“V”) zone to meet the outstanding Small House applications though it could not fully meet the 10-year Small House demand of the concerned villages. The application did not comply with the Interim Criteria in that the site and the footprint of the proposed Small House did not fall within the ‘Village Environ’ of any recognized village. There was no exceptional circumstance to justify approval of the application. Regarding the public comments received, the planning considerations and assessments above were relevant.

116. Members had no question on the application.

Deliberation Session

117. While supporting the recommendation of PlanD, a Member recalled that the Committee had decided to defer making a decision on two applications (No. A/NE-KTS/461 and A/NE-KTS/462) for Small House in “R(D)” zone on 4.1.2019, pending submission of more information so that the Committee could better assess the overall implications on approving Small House in “R(D)” zone. The Member then enquired the progress of such request. In response, the Chairman said that PlanD was gathering the relevant information including previous applications for Small House development within “R(D)” zone and their location. Such information would be provided for the Committee’s reference once ready.

118. After deliberation, the Committee decided to reject the application. The reason was :

“the application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House falls entirely outside the ‘Village Environ’ of any recognized village and the “Village Type Development” (“V”) zone. Land is still available within the “V” zone of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang, where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the “V” zone

for a more orderly development pattern, efficient use of land and provision of infrastructure and services. There is no exceptional circumstance to justify approval of the application.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

Annex C of TPB
Paper No. 10534

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

By Post

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-PH/798

1 February 2019

Tang Yuk Fai

Yuen Long, New Territories

Dear Sir/Madam,

**Proposed House (New Territories Exempted House - Small House)
in "Residential (Group D)" Zone, Lot 2961 RP (Part) in D.D. 111,
Lo Uk Tsuen, Pat Heung, Yuen Long**

I refer to my letter to you dated 10.1.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reason is:

- the application does not comply with the Interim Criteria in that the Site and the footprint of the proposed Small House falls entirely outside the 'Village Environ' of any recognized village and the "Village Type Development" ("V") zone. Land is still available within the "V" zone of Wang Toi Shan, Lo Uk Tsuen, Leung Uk Tsuen and Chuk Hang, where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House close to the existing village cluster within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services. There is no exceptional circumstance to justify approval of the application.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 18.1.2019, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 22.2.2019). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Ivy Wong of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6297.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

(With Chinese Translation)

Advisory Clauses

- (a) resolve any land issue relating to the development with other concerned owner(s) of the Site;
- (b) note DLO/YL, LandsD's comments that the Site is an Old Schedule Agricultural Lot held under the Block Government Lease. The Site does not fall within any VEB of a recognized village. Under normal procedure, when SH applications (NT) are received and due for processing, DLO/YL will consider the applications acting in the capacity as the landlord at its sole discretion in accordance with the New Territories SH policy, including verification of the SH applicants' statuses. There is no guarantee that such applications would be approved. If a proposed Small House site is outside or more than 50% of it is outside the VEB of a recognized village and the "V" zone which encircles the recognized village, the concerned Small House application will be rejected under the NT SH Policy even though the applicant is an indigenous villager who has successfully sought planning permission. Given that the Site neither falls within any VEB of a recognized village nor "V" zone which encircles recognized villages, even the planning approval is given by the Board, the concerned SH application would be rejected under the NT SH policy;
- (c) note DEP's comments that in view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the 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). The applicant is reminded to duly address the potential noise impacts through the provision of suitable mitigation measures to ensure compliance with the relevant planning standards and statutory requirements;
- (d) note CHE/NTW, HyD's comments that HyD does not and will not maintain the accesses connecting the Site and Kam Tin Road. Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains;
- (e) note D of FS's comments that the applicant should follow the "New Territories Exempted Houses – A Guide to Fire Safety Requirements" issued by LandsD;
- (f) note CBS/NTW, BD's comments that in case DLO/YL decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an AP should be appointed as the coordinator for the proposed works. The applicants may approach DLO/YL or seek AP's advice for details; and

- (g) note DEMS's comments that in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/ or overhead line within and/ or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working near Electricity Supply Lines" established under the Regulation when carrying out works in the vicinity of the electricity supply lines.