

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/FSS/287

<u>Applicant</u>	: Mr. Tsang Yau Choi represented by Shing Yue Construction and Engineering Limited
<u>Site</u>	: Government Land in D.D. 91, Ng Uk Tsuen, Sheung Shui, New Territories
<u>Site Area</u>	: 65.03m ² (about)
<u>Land Status</u>	: Government Land (GL)
<u>Plan</u>	: Draft Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/25
<u>Zoning</u>	: “Green Belt” (“GB”)
<u>Application</u>	: Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant, who claims to be an indigenous villager^{Note 1}, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Ng Uk Tsuen, Sheung Shui. The Site falls within an area zoned “GB” on the draft Fanling/Sheung Shui OZP No. S/FSS/25 (**Plan A-1**). According to the Notes of the OZP, ‘House’ is a Column 2 use within the “GB” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently largely vacant and covered by weeds with a small portion occupied by the adjacent domestic structure (**Plans A-2a and A-4**).
- 1.2 The layout of the proposed Small House development with septic tank is shown on **Drawing A-1**. No parking space is proposed within the Site. The Site is accessible via a footpath connecting to Pak Wo Road. Details of the proposed NTEH (Small House) are as follows:

Covered Area	: 65.03 m ²
Total Domestic Floor Area	: 195.09 m ²
Number of Proposed House	: 1
No. of Storeys	: 3
Building Height	: 8.23 m

^{Note 1} As advised by the District Lands Officer/North, Lands Department (DLO/N of LandsD), the applicant’s eligibility for Small House concessionary grant has yet to be ascertained.

- 1.3 In support of the application, the applicant has submitted the application form with attachments received on 12.1.2022 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. They are briefly summarised as follows:

- (a) the applicant is an indigenous villager of Ng Uk Tsuen and entitled to a Small House under the prevailing Small House policy;
- (b) the proposed NTEH is located within the ‘village environ’ (‘VE’) of Ng Uk Tsuen;
- (c) the applicant does not own private land within the “V” zone of Ng Uk Tsuen;
- (d) there is insufficient land within the “V” zone for meeting the demand for Small Houses;
- (e) the proposed Small House development is compatible with the surrounding developments and would not cause environmental impacts to the surrounding areas; and
- (f) should the application be approved, the applicant will adopt effective measures to ensure the proposed Small House development would not affect the surrounding environment.

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

As the site involve GL only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPG PG-No. 31A) are not applicable to the application.

4. 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’ promulgated in July 1991 is relevant. The relevant assessment criteria are summarised as follows:

- (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. With the exception of NTEHs, a plot ratio up to 0.4 for residential development may be permitted;

- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the 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, roads, and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development should not overstrain the overall provision of Government, Institution or Community facilities in the general area; and
- (h) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

5. **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 has been revised several times subsequently. The latest set of Interim Criteria, promulgated on 7.9.2007, is at **Appendix II**.

6. **Previous Application**

There is no previous application in respect of the Site.

7. **Similar Applications**

- 7.1 There are 13 similar applications (No. A/FSS/185, 186, 188, 190, 191, 257, 258, 263, 264, 273, 274, 281 and 285) for proposed house (NTEH – Small House) on eight separate sites to the east and north of the Site within the same “GB” zone approved by the Committee between 2010 and 2021 mainly on considerations that there was a general shortage of land available within the “V” zone of Ng Uk Tsuen to meet the Small House demand; the proposed Small House generally complied with the Interim Criteria for assessing planning application for NTEH/Small House development; and the proposed Small Houses were not incompatible with the adjacent village setting of Ng Uk Tsuen and the surrounding residential developments. One of the sites is no longer covered by valid planning permission

as the planning permission of Application No. A/FSS/191 (extended once for 48 months on 7.5.2014) was lapsed on 8.5.2018, while the remaining seven sites are still covered by valid planning permission.

- 7.2 Details of the applications are summarised at **Appendix III** and their locations are shown on **Plans A-1 and A-2a**.

8. The Site and Its Surrounding Areas (Plans A-1 to A-3 and site photos on Plan A-4)

- 8.1 The Site is:

- (a) to the south of Ng Uk Tsuen;
- (b) within the 'VE' of Ng Uk Tsuen;
- (c) vacant and covered mainly with wild grass; and
- (d) accessible via a footpath connecting to Pak Wo Road.

- 8.2 The surrounding areas have the following characteristics:

- (a) to the north are two one-storey domestic structures and natural landscape area with tree clusters; to the further north and northwest are the village proper of Ng Uk Tsuen and an unused land covered by vegetation;
- (b) to the east and northeast across the existing footpath are seven sites with valid planning permissions (Applications No. A/FSS/258, 263, 264, 273, 274, 281 and 285) for Small Houses; and
- (c) to the south and further east are existing private residential developments, including Royal Green, Glorious Peak and 8 Royal Green.

9. 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.

10. Planning Assessments and 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?			

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	<ul style="list-style-type: none"> - The Site - Footprint of the proposed Small House 		100% 100%	<ul style="list-style-type: none"> - The Site and the footprint of the proposed Small House fall entirely within the “GB” zone.
2.	Within ‘VE’? <ul style="list-style-type: none"> - The Site - Footprint of the proposed Small House 	100% 100%		<ul style="list-style-type: none"> - The District Lands Officer / North, Lands Department (DLO/N, LandsD) advises that the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Ng Uk Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?		✓	<u>Land required</u> <ul style="list-style-type: none"> - Land required to meet Small House demand in Ng Uk Tsuen: about 2.38ha (equivalent to 95 Small House sites). The outstanding Small House applications for Ng Uk Tsuen are 10^{Note 2} while the 10-year Small House demand forecast for Ng Uk Tsuen is about 85.
	Sufficient land in “V” zone to meet outstanding Small House application?		✓	<u>Land available</u> <ul style="list-style-type: none"> - Land available to meet 10-year Small House demand within “V” zone of Ng Uk Tsuen: about 0.11ha (equivalent to about 4 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> - There is a general presumption against development within “GB” zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view based on his recent site inspection which revealed that the Site is covered by grass with some common trees located in the vicinity.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The proposed NTEH (Small House) is located near the centre of the village proper of Ng Uk Tsuen with residential developments to its south and southeast.
6.	Within Water Gathering Ground?		✓	

Note 2 The 10 outstanding Small House applications fall outside “V” zone, with 6 of them have already obtained valid planning permission from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	- The Director of Fire Services (D of FS) has no objection in principle to the application. The applicants should be reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by Lands Department.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) considers the application can be tolerated.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection in principle from the public drainage point of view. - If the application is approved, approval condition to request the applicant to submit and implement a drainage proposal for the Site should be included to ensure the proposed Small House will not cause adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) considers that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD) has no objection from landscape planning perspective.
13.	Local objections conveyed by DO(N)?		✓	

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/N of LandsD;
- (b) C for T;
- (c) CE/MN of DSD;
- (d) DEP;
- (e) DAFC;
- (f) CTP/UD&L of PlanD; and
- (g) D of FS.

10.3 The following government departments have no comment on / no objection to the application:

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Commissioner of Police (C of P);
- (c) District Officer (North), Home Affairs Department (DO(N) of HAD);
- (d) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (e) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE of HyD); and
- (f) Project Manager (North), Civil Engineering and Development Department (PM(N) of CEDD).

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection from 21.1.2022 to 11.2.2022. During the statutory public inspection period, three public comments were received. One comment (**Appendix V-1**) from an individual indicates no comment on the application. The remaining two comments (**Appendices V-2 and V-3**) submitted by individuals object to / raise concern on the application on grounds that the residential developments in the area are dense; there is land available within “V” zone; and the proposed development will bring about adverse impacts on traffic, environmental, fire safety, and air ventilation aspects.

12. Planning Considerations and Assessments

12.1 The application is for a Small House development at the Site which falls entirely within “GB” zone (**Plan A-1**). The planning intention of “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.

12.2 Although the proposed development is not in line with the planning intention of the “GB” zone, the application generally complies with the assessment criterion of the TPB PG-No. 10 set out in paragraph 4(c) above in that the proposed NTEH development is in close proximity to existing villages and in keeping with the surrounding uses, and is to meet the demand from indigenous villagers. Besides, the proposed development is not incompatible with the surrounding environment which is predominately rural in character with mixture of existing village houses,

residential developments and tree clusters. DAFC has no strong view on the application from nature conservation perspective. C for T considers the application could be tolerated. Other relevant departments, including CTP/UD&L of PlanD, DEP, CE/MN of DSD, CE/C of WSD and D of FS have no adverse comments on the application.

- 12.3 Regarding the Interim Criteria (**Appendix II**), DLO/N of LandsD advises that the total number of outstanding Small House applications for Ng Uk Tsuen is 10 while the 10-year Small House demand forecast for the village is 85. According to the latest estimate by PlanD, about 0.11ha (equivalent to about 4 Small House sites) of land are available in the “V” zone (**Plan A-2b**) which is insufficient to meet the outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. Amongst others, in considering whether there is a general shortage of land in meeting Small House demand, more weighting has been put on the number of outstanding Small House applications provided by LandsD. In this regard, the application generally complies with the Interim Criteria in that both the Site and the footprint of the proposed Small House falls entirely within the “VE” of Ng Uk Tsuen (**Plans A-1 and A-2**), and there is a general shortage of land in meeting the demand for Small House development in the “V” zone of the same village. Hence, sympathetic consideration may be given to the application.
- 12.4 There are 13 similar applications (No. A/FSS/185, 186, 188, 190, 191, 257, 258, 263, 264, 273, 274, 281 and 285) within the same “GB” zone approved with conditions by the Committee between 2010 and 2021 on similar considerations as stated in paragraph 7 above. Approving the current application is in line with the Committee’s previous decisions.
- 12.5 Regarding the public comments as stated above in paragraph 11, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, 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 4.3.2026, 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**.

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

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 this zone. No strong justifications are provided in the submission to support a departure from the planning intention.

14. Decisions Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with attachments received on 20.10.2021
Appendix II	Relevant Interim Criteria for Consideration of Application for New Territories (NTEH)/Small House in New Territories
Appendix III	Similar Applications
Appendix IV	Detailed Comments from Relevant Government Departments
Appendix IVa	Drainage Record
Appendices V-1 to V-3	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated amount of land available for Small House development within the "V" zone
Plan A-3	Aerial Photo
Plan A-4	Site Photo