

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/I-MWF/34

- Applicant** : Mr. TSANG Wing Lung represented by Mr. LI Kwok Keung
- Site** : Lot No. 308 RP in D.D.4 MW, Luk Tei Tong Village, Mui Wo, Lantau
- Site Area** : 107.7 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Mui Wo Fringe Outline Zoning Plan (OZP) No. S/I-MWF/10
- Zoning** : “Recreation” (“REC”)
[restricted to a maximum plot ratio of 0.2, a maximum site coverage of 20% and a maximum building height of 2 storeys (6m) for residential development except New Territories Exempted House (NTEH)]
- Application** : Proposed House (NTEH - Small House)

1. The Proposal

- 1.1 The applicant⁽¹⁾ seeks planning permission for the development of a NTEH (Small House) at the application site (the Site) which falls within an area zoned “REC” on the approved Mui Wo Fringe OZP No. S/I-MWF/10 (**Plan A-1**). According to the Notes of the OZP, development of NTEH (Small House) within the “REC” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of a previously approved application (No. A/I-MWF/24) submitted by the same applicant for the same use but lapsed on 31.10.2022 (see details at paragraph 5 below). There is no change in the development proposal as compared with the previous application.
- 1.3 Details of the proposed Small House are as follows:

Built Over Area	:	65.03m ²
Gross Floor Area	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m

⁽¹⁾ As advised by the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD), the applicant is an indigenous villager of Luk Tei Tong Village.

- 1.4 The location plan for the proposed Small House submitted by the applicant is shown at **Drawing A-1**. The proposed development includes provision of a septic tank within the Site. The landscape/stormwater system plan and Luk Tei Tong Village sewage collection alignment plan are shown at **Drawings A-2** and **A-3** respectively.
- 1.5 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received on 15.11.2022.

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 (**Appendix I**). They can be summarised as follows:

- (a) the proposed NTEH (Small House) at the site was previously approved by the Board in 2014 and for renewal in 2018. The permission was valid until 31.10.2022. The applicant has applied to DLO/Is, LandsD for NTEH since 2012 but approval cannot be obtained before expiry of the planning permission;
- (b) there are similar Small Houses at lots outside the “Village Type Development” (“V”) zone but within the village ‘environs’ (‘VE’);
- (c) the Site falls entirely within the ‘VE’ of Luk Tei Tong Village but is not included in the “V” zone of Luk Tei Tong Village. As such, planning application is submitted for the proposed NTEH; and
- (d) the Site has been included in the second stage of the Outlying Island Sewage Collection System (**Drawing A-3**). The drainage works have been commenced by the Drainage Services Department in early November 2021.

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

The applicant is the sole “current land owner” of the Site. 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. The latest set of the Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Previous Application

The Site is the subject of a previous planning application (No. A/I-MWF/24) submitted by the same applicant for the same use (**Plan A-2a**). The application was approved with conditions by the Committee on 31.10.2014 on the consideration that there had been changes in planning circumstances with increase in demand for Small House in Luk Tei Tong Village as well as a decrease in land available for Small House development within the “V” zone due to the implementation of public facilities. On 19.10.2018, the Director of

Planning, under the delegated authority of the Board, approved the Extension of Time (EOT) for commencement of the approved development for 48 months from 31.10.2018 to 31.10.2022. However, the planning permission lapsed on 31.10.2022. Details of the previous application are summarised at **Appendix III**.

6. Similar Applications

- 6.1 There are ten similar applications (**Plan A-1**) for Small House development within “REC” zone on the OZP. Out of these applications, five were approved and five were rejected.
- 6.2 Five applications (No. A/I-MWF/5, 12, 22, 25 and 32) covering four sites were approved with conditions by the Committee mainly on the considerations that favourable consideration could be given under the Interim Criteria as the proposed footprint of the Small Houses fell partly within “V” and ‘VE’; there were a general shortage of land to meet the demand for Small House development; and the proposed Small House developments were compatible with the nearby village houses and rural setting and would not give significant adverse impacts on the surroundings.
- 6.3 Five applications (No. A/I-MWF/7, 8, 10, 11 and 13) were rejected by the Committee mainly for the reasons that the proposed Small House developments were not in line with the planning intention of the “REC” zone and the Interim Criteria in that only a small portion of the application sites fell within ‘VE’ or “V” zone; there was still available land within the “V” zone for Small House development at the time of consideration; and approval of the applications would set undesirable precedents for similar applications.
- 6.4 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) within the ‘VE’ of Luk Tei Tong Village;
- (b) flat, vacant and covered with weeds; and
- (c) accessible via local footpaths/tracks leading to Ngan Shu Street to the north and Ngan Kwong Wan Road to the northeast.

7.2 The surrounding areas have the following characteristics:

- (a) to the northwest are several 3-storey village houses, which fall partly/entirely within the adjacent “V” zone;
- (b) to the north is a piece of flat land fenced off for private garden use; and
- (c) to the further northeast is a river channel.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 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? - The Site - Footprint of the Small House	- -	100% 100%	- The Site and the Small House footprint fall entirely within ‘REC’ zone.
2.	Within ‘VE’? - The Site - Footprint of the Small House	100% 100%	- -	- The Site and the Small House footprint fall entirely within the ‘VE’ of Luk Tei Tong Village. - DLO/Is, LandsD has no in-principle objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)? Sufficient land in “V” zone to meet outstanding Small House application?	 ✓	✓	<u>Land Required</u> - Land required to meet the Small House demand in Luk Tei Tong Village: about 2.3ha (equivalent to 92 Small House sites). The outstanding Small House applications for Luk Tei Tong Village are 14 ⁽²⁾ while the 10-year Small House demand forecast for the same village is 78. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of Luk Tei Tong Village: about 1.87ha (equivalent to about 75 Small House sites) (Plan A-2b).

⁽²⁾ Among the 14 outstanding Small House applications, 11 of them fall within the “V” zone and three straddle or fall outside the “V” zone. For those three applications straddling or outside the “V” zone, two have obtained valid planning permissions from the Board while the Small House footprint of the remaining one falls largely within the “V” zone and ‘VE’.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of "REC" zone?		✓	
5.	Compatible with surrounding area/ development?	✓		- The Site is located to the southeast of Luk Tei Tong Village. The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses and vacant land (Plan A-3).
6.	Within Water Gathering Ground (WGG)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that the application may set an undesirable precedent for similar applications in the future and the cumulative traffic impact of such developments may overload the existing/ planned transport infrastructures in the area. Notwithstanding this, she considers that the application is the subject of a previously approved application, and has no comment on the application.
10.	Drainage impact?	✓		- Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK&Is, DSD) advises that there is no public stormwater drainage system in the vicinity of the Site for connection at the moment. The applicant should ensure that the development would not impose flooding risk to the nearby region. - An approval condition requiring the applicant to submit and implement a drainage proposal should be imposed if approval is granted.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - CE/HK&I, DSD and Director of Environmental Protection (DEP) have no adverse comment on the application. - CE/HK&I, DSD advises that DSD is carrying a Contract No. DC/2021/09 – “Outlying Islands Sewerage Stage 2 – Mui Wo Luk Tei Tong and Ma Po Tsuen” in the vicinity of the proposed house and a connection point for the proposed house may be able to be provided for connecting to the public sewerage system.
12.	Landscaping impact?		✓	<ul style="list-style-type: none"> - Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective.
13.	Local objections conveyed by DO?		✓	<ul style="list-style-type: none"> - District Officer/Islands, Home Affairs Department (DO/Is, HAD) advises that no local objection has been received relating to the application.

9.2 Comments from the following government departments have been incorporated in the above paragraph. Detailed comments are at **Appendix V**.

- (a) DLO/Is, LandsD;
- (b) CE/C, WSD;
- (c) D of FS;
- (d) C for T;
- (e) CE/HK&Is, DSD;
- (f) DEP;
- (g) CTP/UD&L, PlanD; and
- (h) DO/Is, HAD.

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

- (a) Commissioner of Police;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Chief Highway Engineer/New Territories East, Highways Department; and
- (d) Head of Sustainable Lantau Office, Civil Engineering and Development.

10. **Public Comments Received During Statutory Publication Period**

On 22.11.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals, expressing concerns mainly on the design of proposed Small House (e.g. external wall, windows and

air conditioner units) and the lack of infrastructures in the village (e.g. sewage system, access road and public space) (**Appendix VI**).

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed Small House development at the Site zoned “REC” on the OZP. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public and development of active and/or passive recreation and tourism/eco-tourism. The Site is located at the south-western fringe of the “REC” zone which is adjacent to the village-type houses to the northwest. The proposed Small House development at the Site would not jeopardise the integrity and frustrate the overall planning intention of the “REC” zone for recreational development for the use of the general public.
- 11.2 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of Luk Tei Tong Village (**Plan A-2a**). According to DLO/Is, LandsD, the total number of outstanding Small House applications for Luk Tei Tong Village is 14 while the 10-year Small House demand forecast is 78. Based on the latest estimate by PlanD, about 1.87 ha (equivalent to about 75 Small House sites) of land is available within the “V” zone concerned (**Plan A-2b**). While land available within the “V” zone is insufficient to meet the future Small House demand, land is available within the “V” zone to meet the outstanding 14 Small House applications. It should be noted that the Board has formally adopted a more cautious approach in considering applications for Small House development since 2015. 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 orderly development pattern, efficient use of land and provision of infrastructures and services. Nonetheless, it is noted that the Site is situated near the edge of the “V” zone, and amidst a new village cluster in the “REC” zone. In addition, planning permission was granted by the Committee with conditions for the previous application (No. A/I-MWF/24) submitted by the same applicant on 31.10.2014 with EOT approved on 19.10.2018. However, the planning permission lapsed on 31.10.2022. The approved Small House development thereat has not commenced mainly because the Small House grant is still under processing by DLO/Is, LandsD. Noting that there has been no change in planning circumstances since approval of the previous application, sympathetic consideration may be given to the current application.
- 11.3 Since the Interim Criteria was revised in 2007, the Committee has approved three similar applications (No. A/I-MWF/22, 25 and 32) in the subject “REC” zone mainly on the considerations that favourable consideration could be given under the Interim Criteria as the proposed Small House footprint partly within “V” zone and ‘VE’. Approving the current application is in line with the Committee’s previous decisions.
- 11.4 The Site is located to the southeast of Luk Tei Tong Village. The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses and vacant land. CTP/UD&L, PlanD has no comment on the application from landscape planning perspective. Besides, the proposed Small House generally complies with the Interim Criteria in that it is not

anticipated to result in adverse drainage, sewerage, environmental and water supply impacts on the surrounding areas. Concerned departments including DSD, EPD and WSD have no objection to or no adverse comments on the application. The concerns of CE/HK&Is, DSD on possible flooding risk could be addressed by imposing an approval condition on the submission and implementation of a drainage proposal. Whilst C for T advises that the application may set an undesirable precedent for similar applications in the future and the cumulative traffic impact resulted from the permission of Small House development outside “V” zone may overload the existing/planned transport infrastructures in the area, she considers that the current application is the subject of a previously approved application and hence has no comment on the application.

- 11.5 Regarding the public comments expressing concerns on the application, the departmental comments in paragraph 9 and the assessments in paragraphs 11.1 to 11.4 above are relevant. As regards the design of the proposed Small House, DLO/Is, LandsD advises that there are regulatory requirements on the dimensions of NTEH as well as the provision of green and amenity facilities as specified in the pamphlet “Building New Territories Exempted Houses” promulgated by LandsD.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 13.1.2027, 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 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 attached at **Appendix VII**.

- 12.3 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 the “Recreation” zone which is primarily for recreation developments for the use of the general public. There is no strong justification in the submission for a departure from the planning intention; and
 - (b) land is still available within “Village Type Development” (“V”) zone of Luk Tei Tong Village for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the

“V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 15.11.2022
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Location Plan
Drawing A-2	Landscape and Stormwater System Plan
Drawing A-3	Luk Tei Tong Village Sewage Collection Alignment 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 Photos

**PLANNING DEPARTMENT
JANUARY 2023**