

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

**APPLICATION NO. A/I-TCTC/61**

- Applicant** : Mr. LEUNG Koon Hei
- Site** : Lot 2567 in D.D. 3 TC, Ha Ling Pei Village, Tung Chung, Lantau Island
- Site Area** : 65.03 m<sup>2</sup> (about)
- Lease** : New Grant No. 22377 (demised for non-industrial use)
- Plan** : Approved Tung Chung Town Centre Area Outline Zoning Plan No. S/I-TCTC/24
- Zonings** : “Green Belt” (“GB”)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Ha Ling Pei Village, seeks planning permission to build a NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House’ use within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed Small House development are as follows:
- |                   |   |                      |
|-------------------|---|----------------------|
| Roofed over area  | : | 65.03m <sup>2</sup>  |
| Total floor area  | : | 195.09m <sup>2</sup> |
| Number of storeys | : | 3                    |
| Building height   | : | 8.23m                |
- 1.3 The layout plan of the proposed development including a septic tank submitted by the applicant is shown at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted an application form with attachment (**Appendix I**), which was received by the Board on 22.12.2021.

## **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** and summarised as follows:

- (a) the applicant is the indigenous villager of the Ha Ling Pei Village and has obtained Certificates of Exemption (C of E) for building works, site formation works and drainage works issued by the District Lands Office, Islands of Lands Department (LandsD). The applicant has devoted a large amount of time and money in the application with a view to meeting the housing need of the applicant and his family. The Site is solely owned by the applicant and is within the 'Village Environs' ('VE');
- (b) although the Site falls within the "GB" zone, it is located close to the "Village Type Development" ("V") zone where there is insufficient land for development;
- (c) the proposed development will only involve clearance of grass and shrubs at the Site and trimming of the adjoining trees and vegetation;
- (d) the proposed development will not cause adverse impacts in terms of drainage and sewerage as C of E for such works has been issued by LandsD and the works will be supervised by authorised person(s); and
- (e) approval of the application would not set an undesirable precedent as the adjoining lots are located on slopes not suitable for building houses.

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

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection.

## **4. Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

## **5. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' (**Appendix III**) are relevant to this application. The relevant assessment criteria are summarised below:

- (a) there is a general presumption against development in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application 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 areas. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (h) any proposed development on a slope or hillside should not adversely affect slope stability.

## **6. Previous Application**

There is no previous application at the Site.

## **7. Similar Applications**

- 7.1 There are three similar applications for Small House development (Applications No. A/I-TCTC/55, A/I-TCTC/57 and A/I-TCTC/58) partly falling with the same “GB” zone (83%, 75% and 99% respectively) and partly falling with the nearby “V” zone (17%, 25% and 1% respectively). The former application was

rejected by the Board upon review on 21.4.2017 (with an appeal dismissed by the Appeal Board Panel (Town Planning) (TPAB) on 26.2.2019) and the latter two applications were rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 25.8.2017 and 27.10.2017 respectively mainly on the grounds that the proposed Small House development was not in line with the planning intention of the “GB” zone; land was still available within the “V” zone for Small House development; and approval of the application would set an undesirable precedent of similar applications within the “GB” zone.

- 7.2 Details of the applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:

- (a) located on a slope covered with vegetation and trees;
- (b) located at the south fringe of the village cluster of Ha Ling Pei Village;  
and
- (c) without pedestrian and vehicular accesses.

- 8.2 The surrounding areas have the following characteristics:

- (a) to its north are predominantly rural in character with village houses;
- (b) to its east, south and west are sloping grounds covered with trees and dense vegetation; and
- (c) Tung Chung Fort, which is a declared monument, is located about 15m to the further northeast.

## **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 preserve the existing topography and natural vegetation at the fringe of the new town as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

## 10. Comments from Relevant Government Departments

10.1 The application has been assessed against the assessment criteria as set out 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  • The Site		100%  100%	• The Site and the proposed Small House footprint fall entirely within “GB” zone.
2.	Within ‘VE’? • Footprint of the proposed Small House  • The Site	100%  100%		• The Site and the proposed Small House footprint fall entirely within the common ‘VE’ of Sheung Ling Pei Village, Ha Ling Pei Village, Wong Ka Wai Village and Lung Tseng Tau Village ( <b>Plans A-2a and A2-b</b> ).  • District Lands Officer/Islands (DLO/Is), LandsD has no objection to the application.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> • Land required to meet Small House demand of four villages (i.e. Sheung Ling Pei Village, Ha Ling Pei Village, Wong Ka Wai Village and Lung Tseng Tau Village) which fall within the same “V” zone: about 5.7 ha (equivalent to 228 Small House sites). The outstanding Small House applications of these four villages is 87 while the 10-year Small House demand forecast for the same villages is 141.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> • Land available to meet Small House demand within the “V” zone of the four villages: about 3.44 ha (or equivalent to 137 Small House sites) ( <b>Plan A-2b</b> ).

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> <li>• There is a general presumption against development within the “GB” zone.</li> <li>• Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application. The Site is mainly covered with grass and a few common trees near its southern boundary may be affected by the proposal. The applicant is reminded to avoid/minimise causing any impact on the nearby existing trees during construction.</li> </ul>
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> <li>• The proposal for a single Small House at the fringe of an existing village cluster would unlikely induce significant adverse effects on the overall visual character in the area.</li> </ul>
6.	Within Water Gathering Ground?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> <li>• Director of Fire Services (D of FS) has no objection to the application.</li> <li>• The applicant is reminded to observe ‘NTEHs – A Guide to Fire Safety Requirements’ published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.</li> </ul>
9.	Traffic impact?		✓	<ul style="list-style-type: none"> <li>• Commissioner for Transport (C for T) considers that the application proposed only for one number of small house can be tolerated on traffic grounds.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?		✓	<ul style="list-style-type: none"> <li>• Chief Engineer/Hong Kong and Islands, Drainage Services Department (CE/HK&amp;I, DSD) has no in-principle objection to the application.</li> <li>• If the application is approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to the satisfaction of the Director of Drainage Services to ensure that the proposed development will not cause adverse drainage and flooding impacts to the adjacent area.</li> </ul>
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> <li>• Director of Environmental Protection (DEP) has no objection to the application. In view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.</li> </ul>
12.	Landscape impact?	✓		<ul style="list-style-type: none"> <li>• Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has reservation on the application from landscape planning perspective.</li> <li>• The proposed development would encroach onto a lushly vegetated area in “GB” zone and is considered not entirely compatible with the landscape character of the surrounding area.</li> <li>• The proposed Small House appears in conflict with the existing trees including several young to semi-mature trees of common native woodland species and some whip to young trees of <i>Aquilaria sinensis</i> (土沉香), a rare and precious species and protected under Cap. 586, within/ adjoining the site</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>boundary.</p> <ul style="list-style-type: none"> <li>• The site located on a slope has no pedestrian access connecting to the nearest footpath. Information of the associated site formation works, pedestrian access, existing trees and the proposed treatments are not provided by the applicant. The potential adverse impact on the existing landscape resources arising from the proposed development cannot be reasonably ascertained.</li> <li>• Given that the proposed house will fully occupy the Site leaving no space for landscape enhancement by planting, no landscape condition is recommended if the application is approved by the Board.</li> </ul>
13.	Geotechnical impact?		✓	<ul style="list-style-type: none"> <li>• Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO) of CEDD) has no in-principle geotechnical objection to the application.</li> </ul>
14.	Heritage impact		✓	<ul style="list-style-type: none"> <li>• Comments of Executive Secretary (Antiquities &amp; Monuments), Antiquities and Monuments Office (AMO) advises that the Site is located in close proximity to the Tung Chung Fort, a declared monument under the Antiquities and Monuments Ordinance (Cap. 53). Based on the agreement on Small House applications at Sheung Ling Pei Village near the Declared Monument – Tung Chung Fort, made between LandsD and AMO in the meeting held on 5.5.2016, there should a buffer zone outside the monument boundary of Tung Chung Fort as far as possible, in order to minimise all the possible impacts to the Tung Chung Fort.</li> </ul>



	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
15.	Local objection received from DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix V**.

- (a) DLO/Is, LandsD;
- (b) DAFC;
- (c) C for T;
- (d) Chief Building Surveyor/New Territories East 1 & Lantau, Buildings Department;
- (e) CE/HK&I, DSD;
- (f) DEP;
- (g) CE/Construction, WSD;
- (h) CTP/UD&L, PlanD.
- (i) D of FS;
- (j) Director of Electrical and Mechanical Services; and
- (k) Executive Secretary (Antiquities & Monuments), AMO.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) District Officer (Islands), Home Affairs Department (DO/Is, HAD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (CEDD); and
- (d) Head of Sustainable Lantau Office (H(SLO)), CEDD.

## **11. Public Comments Received During Statutory Publication Period**

On 31.12.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received from Kadoorie Farm and Botanic Garden Corporation and three individuals (**Appendix VI**). All of them object to the application mainly on the grounds of not in line with the planning intention of the “GB” zone; slope safety concern due to construction of proposed house; and setting of undesirable precedent affecting the adjacent historic Tung Chung Fort.

## **12. Planning Considerations and Assessments**

12.1 The Site falls within the “GB” zone on the OZP. The proposed Small House development is not in line with the planning intention of the “GB” zone which

is intended primarily for defining the limits of urban and sub-urban development areas by natural features and to preserve the existing topography and natural vegetation at the fringe of the new town as well as to provide passive recreational outlets. There is a general presumption against development within this zone. According to the TPB PG-No. 10, new development will only be considered in exceptional circumstances and must be justified with very strong planning grounds. However, there is no strong planning justification in the submission for the proposed Small House development in the “GB” zone.

- 12.2 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely within the common ‘VE’ of Sheung Ling Pei, Ha Ling Pei, Wong Ka Wai and Lung Tseng Tau. According to DLO/Is, LandsD’s records, the total number of outstanding Small House applications for the four villages is 87 while the 10- year Small House demand forecast for the same villages is 141. Based on the latest estimate by PlanD, about 3.46 ha (or equivalent to about 138 Small House sites) of land are available within the “V” zone of these four villages (**Plan A-2b**). Although land in the “V” zone of these four villages is insufficient to fully meet the future Small Houses demand (about 228 Small House sites), it is capable of meeting the outstanding 87 Small Houses applications. Given the adoption of a more cautious approach by the Board in considering Small House application in recent years, 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.
- 12.3 The Site is located on a slope with vegetation and trees without pedestrian access (**Plans A-3 and A-4**). CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective as the proposed development would encroach onto a lushly vegetated area in “GB” zone and is considered not entirely compatible with the landscape character of the surrounding area. The proposed Small House appears in conflict with the existing trees (including some whip to young trees *Aquilaria sinensis* (土沉香)) within/adjoining the site boundaries. Without information of site formation works, pedestrian access, existing trees and the proposed treatments of the proposed development, the potential adverse impact on the existing landscape resources cannot be reasonably ascertained. Other relevant government departments including H(GEO) of CEDD, DAFC, DEP, C for T, CE/HK&I, DSD, CE/C, WSD, D of FS, AMO and DO/Is, HAD have no objection to / no adverse comment on the application.
- 12.4 There are three similar applications within the same “GB” rejected by the Board upon review or by the Committee in 2017 (including one with an appeal dismissed by TPAB in 2019). Rejection of the current application is consistent with the Committee/Board’s previous decisions.
- 12.5 Regarding the public comments objecting to the application, the departmental comments in paragraph 10 above and the planning assessments in paragraphs 12.1 to 12.4 above are relevant.

### **13. Planning Department's Views**

13.1 Based on the assessments made in paragraph 12 and taking into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “Green Belt” (“GB”) zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to preserve the existing topography and natural vegetation at the fringe of the new town as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) land is still available within the “Village Type Development” (“V”) zone of Sheung Ling Pei, Ha Ling Pei, Wong Ka Wai and Lung Tseng Tau which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructure and services; and
- (c) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance and the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.2.2026, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Condition

the submission of a drainage proposal and the provision of storm water drainage connection and disposal facilities identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

#### Advisory Clauses

The recommended advisory clauses are at **Appendix VII**.

**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 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**

<b>Appendix I</b>	Application Form with Location Plan Received on 22.12.2021
<b>Appendix II</b>	Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in the New Territories
<b>Appendix III</b>	Town Planning Board Guidelines No. 10 for 'Application for Development within "Green Belt" Zone under section 16 of the Town Planning Ordinance'
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comments
<b>Appendix VII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2a</b>	Site Plan
<b>Plan A-2b</b>	Estimated Amount of Land Available for Small House Development within the "V" zone
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2022**