

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/609

<u>Applicant</u>	Mr. LAM Geoffrey represented by TriWeb Surveying Company
<u>Site</u>	Lot 990 S.C RP in D.D. 9, Nam Wa Po Village, Tai Po
<u>Site Area</u>	About 131 m ²
<u>Plan</u>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<u>Zonings</u>	“Green Belt” (“GB”) (about 68%) “Village Type Development” (“V”) (about 32%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

- 1.1 The applicant, an indigenous villager of Nam Wa Po¹, 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, while ‘House (NTEH only)’ use is always permitted within the “V” zone, such use (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ 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:
- | | | |
|-------------------|---|-----------------------|
| Total Floor Area | : | 195.09 m ² |
| Number of Storeys | : | 3 |
| Building Height | : | 8.23 m |
| Roofed Over Area | : | 65.03 m ² |
- 1.3 No car parking space or vehicular access to the Site are proposed. The uncovered area is proposed as circulation area (**Drawing A-1**).
- 1.4 The Site is the subject of two previous applications (No. A/NE-KLH/330 and 463) for Small House development which were submitted by the same applicant of the current application and were approved by the Rural and New Town Planning Committee (the Committee) on 28.1.2005 and 21.3.2014 respectively. Details of these previous applications are set out in paragraph 6 below.

¹ As advised by the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), the Indigenous Inhabitant Representative (IIR) of Nam Wa Po has confirmed the applicant as an indigenous villager of Nam Wa Po. His eligibility of Small House grant has been ascertained.

- 1.5 In support of the application, the applicant has submitted an application form with attachments on 8.6.2022 (**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 can be summarized as follows:

- (a) the applicant is an indigenous villager and is entitled for Small House grant under the Small House Policy;
- (b) the Site is the subject of a previous planning application (No. A/NE-KLH/463) which was approved by the Committee on 21.3.2014, and the planning permission was valid until 21.3.2022;
- (c) the small house grant application has been approved by LandsD. However, due to the epidemic of COVID-19, the applicant failed to return to Hong Kong for signing the land document before the expiry of planning permission. Since the planning permission has then lapsed, the applicant has to submit a fresh application for continuous processing of the land documents; and
- (d) drainage and sewerage proposal had been submitted and accepted by relevant departments.

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 and amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria 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’ is relevant to this application. The relevant assessment criteria are at **Appendix III**.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications (No. A/NE-KLH/330 and 463) for the same use and submitted by the same applicant of the current application, which were approved by the Committee on 28.1.2005 and 21.3.2014 respectively, mainly on the consideration that more than 50% of the footprint of the proposed Small House fell within the village ‘environs’ (‘VE’) of Nam Wa Po; there was a general shortage of land to meet the demand for Small House development in the ‘V’ zone at the time of consideration; and the proposed Small House would be able to be connected to the planned sewerage. Compared with the last application (No. A/NE-KLH/463), there is no change in site area, footprint and disposition of the proposed Small House under the current application.
- 6.2 Details of the previous applications are summarized at **Appendix IV** and the location is shown on **Plans A-1** and **A-2a**.

7. Similar Application

- 7.1 There is a similar application (No. A/NE-KLH/562) for Small House development straddling the same “GB” and “V” zones. The application was rejected by the Town Planning Board (the Board) on review on 22.5.2020 for the reasons that the proposed development was not in line with the planning intention of the “GB” zone; and land was still available within the “V” zone for Small House development.
- 7.2 Details of the similar application is summarized at **Appendix V** and the location is shown on **Plans A1** and **A-2a**.

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

- 8.1 The Site is:
- (a) a piece of vacant hard paved land with no vegetation;
 - (b) located at the eastern fringe of Nam Wa Po Village and within the ‘VE’ of Nam Wa Po;
 - (c) within the upper indirect water gathering ground (WGG); and
 - (d) accessible via a local track leading to Fanling Highway to the east.
- 8.2 The surrounding areas are predominantly rural in character occupied by village houses and temporary structures (**Plans A-2a** and **A-3**). Village houses are adjacent to the Site to its west and south. A water course is about 30m to the east and a pond is located about 40m to the north of the Site.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “V” zone is to reflect existing recognised villages, and to provide land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

10. Comments from Relevant Government Departments

- 10.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarized 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	32% 35%	68% 65%	- The remaining portion (68%) of the Site is within the “GB” zone. - The remaining portion (65%) of the proposed Small House is within the “GB” zone.
2.	Within ‘VE’? - The Site - Footprint of the Small House	100% 100%	- -	- The Site and the proposed Small House footprint fall entirely within ‘VE’ of Nam Wa Po. - DLO/TP, 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 in Nam Wa Po: about 5.23 ha (equivalent to 209 Small House sites). The outstanding Small House applications are 12 ² while the 10-year Small House demand forecast is 197.

² Among the 12 outstanding Small House applications, 7 of them fall within the “V” zone and 5 straddle the “V” zone. For those 5 applications straddling the “V” zone, none of them has obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	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 Nam Wa Po: about 2.21 ha (equivalent to about 88 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within “GB” zone. However, Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from the nature conservation point of view as the Site is hard paved.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are rural in character with a mix of village house and temporary structures (Plan A-2).
6.	Within WGGs?	✓		- The Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) has no objection to the application provided that the construction of the proposed Small House shall not commence before the connection of the foul water drainage system to the existing sewerage system. - The Director of Environmental Protection (DEP) has no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the Small House to the public sewer at his own costs and reserve adequate land for the sewer connection work.

	<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 in-principle objection to the application.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) considers the application involving only development of a Small House can be tolerated on traffic grounds.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application. - Approval condition requiring the submission and implementation of drainage proposal is required.
11.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning point of view as the proposed Small House is not incompatible with the surrounding rural village setting, and the Site is paved. Significant adverse impact on landscape resources is not anticipated.
12.	Geotechnical impact?		✓	
13.	Local objections conveyed by District Officer (Tai Po), Home Affairs Department		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	(DO (TP), HAD)?			

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

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

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) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (d) DO(TP), HAD.

11. Public Comments Received During Statutory Publication Period (Appendix VII)

The application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application mainly on the grounds of violating the planning intention of the “GB” zone; and adverse traffic, fire safety, environmental and ecological impacts.

12. Planning Considerations and Assessments

12.1 The application is for a proposed Small House development at the Site partly zoned “GB” (68%) and partly zoned “V” (32%). The proposed Small House 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, and there is a general presumption against development. Nevertheless, DAFC has no strong view on the application as the Site is hard paved.

12.2 The Site is located at the eastern fringe of Nam Wa Po Village, where village houses are found to the immediate west and south of the Site. The proposed Small House is not incompatible with the surrounding rural and village setting,

and CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact is not expected.

- 12.3 Regarding the Interim Criteria (**Appendix II**), the proposed Small House falls entirely within the 'VE' of Nam Wa Po. According to the DLO/TP, LandsD's records, the total number of outstanding Small House applications for Nam Wa Po is 12 while the 10-year Small House demand forecast is 197. Based on the latest estimate by PlanD, about 2.21 ha of land (or equivalent to about 88 Small House sites) is available within the "V" zone concerned (**Plan A-2b**). In this regard, such available land is capable to meet the outstanding 12 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development since August 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. 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. Nevertheless, the Site is the subject of two previous planning approvals (No. A/NE-KLH/330 and 463) given in 2005 and 2014 respectively to the same applicant for Small House development. Although the last previous planning approval (A/NE-KLH/463) has expired on 22.3.2022, DLO/TP, LandsD advises that the Small house grant application has been approved pending execution of land grant documents. The proposal under current application is the same as the previous approved cases in terms of site boundary, development parameters and Small House footprint. In view of the above, sympathetic consideration could be given to the current application.
- 12.4 The Site is located within the upper indirect WGG, and the applicant has proposed to connect the proposed Small House to the existing public sewerage system (**Plan A-2a**). DEP and CE/C of WSD have no objection to the application provided that the applicant should connect the proposed Small House to the public sewer at his own cost and adequate space within the Site will be reserved for connection. CE/MN of DSD has no adverse comment on the application but suggests an approval condition requiring the submission and implementation of drainage proposal. Other concerned government departments including C for T, D of FS, CHE/NTE of HyD, PM(N) and H(GEO) of CEDD have no objection to or no adverse comment on the application. In view of the above, the application is considered generally in line with the TPB-PG No. 10.
- 12.5 There is a similar application (No. A/NE-KLH/562) straddling the same "GB" and "V" zones of the Site which was rejected by the Board on review for the reasons of not in line with the planning intention of the "GB" zone, and land still available within the "V" zone for Small House development. The planning circumstances of this similar application is different from the current application.
- 12.6 Regarding the public comments objecting to the application as detailed in paragraph 11 above, comments of government departments and the planning 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 has no objection to this application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until **29.7.2026**, 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 VIII**.

- 13.3 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 "Green Belt" ("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. There is no strong justification given in the submission for a departure from the planning intention of the "GB" zone; and
 - (b) land is still available within the "Village Type Development" ("V") zone of Nam Wa Po 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.

14. Decision 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 and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the

applicant.

15. Attachments

Appendix I	Application form and attachments received on 8.6.2022
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House in New Territories
Appendix III	Relevant Extract of TPB-PG No. 10
Appendix IV	Previous applications
Appendix V	Similar application
Appendix VI	Detailed comments from relevant Government departments
Appendix VII	Public comments
Appendix VIII	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Sewerage connection proposal plan submitted by the applicant
Drawing A-3	Drainage connection proposal plan submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zone
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
JULY 2022**