

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

**APPLICATION NO. A/NE-KLH/625**

- Applicant** : Mr. LAM Jing Long Oliver represented by Euro Asia Construction Engineering Limited
- Site** : Lots 981 S.C ss.1 and 981 RP in D.D. 9, Nam Wa Po, Tai Po, New Territories
- Site Area** : About 198.8m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zonings** : ‘Green Belt’ (“GB”) (about 127.2m<sup>2</sup> or 64%)  
“Village Type Development” (“V”) (about 71.6m<sup>2</sup> or 36%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, an indigenous villager of Nam Wa Po Village<sup>1</sup> as confirmed by the Indigenous Inhabitant Representative, seeks planning permission to build a NTEH (Small House) on the application site (the Site) falling within an area zoned “GB” (about 127.2m<sup>2</sup> or 64%) and “V” (about 71.6m<sup>2</sup> or 36%) on the OZP (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within the “V” zone, while ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH)’ 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	:	187.5m <sup>2</sup>
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	62.5m <sup>2</sup>

1.3 According to the applicant, the uncovered area (about 136.3m<sup>2</sup> or 69%) is proposed for landscaping use. The layout of the proposed Small House and

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant is yet to be ascertained.

the proposed sewerage connection are shown in **Drawings A-1** and **A-2** respectively.

1.4 A total of three existing trees including a healthy *Artocarpus heterophyllus* (大樹菠蘿) at/near the Site will be preserved. Shrub planting will be included in the landscape area.

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

(a) Application Form with attachments received on 18.5.2023 **Appendix I**

(b) Further Information (FI) received on 4.7.2023 **Appendix Ia**

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I and Ia** respectively, as summarized below:

- (a) the applicant is an indigenous villager and has applied to DLO/TP, LandsD for development of a Small House in 2021;
- (b) the applicant has no other land for Small House development;
- (c) the entire Site falls within village ‘environs’ (‘VE’) of Nam Wa Po Village, and about 90.4% of the proposed Small House footprint falls within “V” zone;
- (d) the proposed development would provide landscaping feature that may improve visual and environmental qualities, and would have insignificant traffic impact;
- (e) the site boundary will not encroach onto the existing no-through road; and
- (f) there are a number of similar applications approved by the Board.

## **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 Interim Criteria, which was revised 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’ is relevant to this application. The relevant assessment criteria are at **Appendix III**.

**6. Previous Application**

There is no previous application on the Site.

**7. Similar Applications**

7.1 There are five similar applications for Small House development in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Four of them were approved and one was rejected.

7.2 Application No. A/NE-KLH/298 was approved by the Rural and New Town Planning Committee (the Committee) before criterion (i) of the Interim Criteria<sup>2</sup> came into effect on 23.8.2002. Applications No. A/NE-KLH/330 and 463 were approved by the Committee in 2005 and 2014 respectively before the Board’s formal adoption of a more cautious approach in considering Small House applications since August 2015, mainly on considerations that more than 50% of the proposed Small House footprint fell within the ‘VE’ of Nam Wa Po Village; 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 system. For Application No. A/NE-KLH/609 in 2022, it was approved mainly on sympathetic consideration for being the subject of previously approved applications.

7.3 For Application No. A/NE-KLH/562, there was only 10% of the Small House footprint falling within the “V” zone. It was dismissed by the Town Planning Appeal Board (TPAB) in 2022 for 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.

7.4 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

**8. The Site and Its Surrounding Areas (Plans A-1, A-2a, and photos on Plans A-3 and A-4)**

8.1 The Site is:

- (a) vacant and covered with vegetation and some fruit trees;

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<sup>2</sup> Criterion (i) which requires that the application site, if located within WGGs, should be able to be connected to the existing/planned sewerage system in the area.

- (b) located at the eastern fringe of Nam Wa Po Village and entirely within the ‘VE’ of Nam Wa Po Village;
- (c) located within the upper indirect water gathering grounds (WGGs); and
- (d) accessible via a local track connecting to Tai Wo Service Road West.

8.2 The surrounding areas are predominantly rural in character comprising village houses, tree clusters and watercourse. The Site is in close proximity to the existing village cluster of Nam Wa Po to its immediate west.

## 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. Comments from Relevant Government Departments

10.1 The application has been assessed against the assessment criteria at **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?  - Footprint of the proposed Small House  - The Site	90.4%  36%	9.6%  64%	- About 64% of the Site and about 9.6% of the proposed Small House footprint fall within “GB” zone.  - According to the applicant, the uncovered area (about 136.3m <sup>2</sup> or 69%) in the “GB” zone is proposed for a landscaping area.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%	-  -	- DLO/TP, LandsD advises that the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Nam Wa Po Village ( <b>Plan A-1</b> and <b>A-2a</b> ).
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus		✓	<u>Land Required</u> - Land required to meet Small House demand in Nam Wa Po Village: about 5.18 ha (equivalent to 207 Small House sites). The

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
	10-year Small House demand)?			number of outstanding Small House applications is 10 <sup>3</sup> while the 10-year Small House demand forecast is 197.
	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 concerned village: about 2.12ha (equivalent to about 84 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within “GB” zone.  - Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view, notwithstanding that the proposed development may affect some common fruit trees within the Site.
5.	Compatible with surrounding area/ development?	✓		- The Site is located in an area of settled valleys landscape character comprising small houses, clusters of tree groups and watercourse.
6.	Within WGGs?	✓		- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application provided that the applicant would connect the proposed Small House to the existing public sewer and take adequate protective measures to ensure that no pollution or siltation occurs to the WGG.
7.	Environmental and sewerage impact?		✓	- Director of Environmental Protection (DEP) has no in-principle objection to the

<sup>3</sup> Among the 10 outstanding Small House applications, 8 fall within the “V” zone and 2 straddle the “V” zone which are not covered by valid planning permission.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				application provided that the applicant will provide adequate sewer connection for disposal of sewage from the proposed development to the existing public sewer at his own costs and reserve adequate land for the sewer connection work.
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
10.	Traffic impact?	✓		- Commissioner for Transport (C for T) advises that Small House development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The cumulative adverse traffic impact could be substantial. Notwithstanding the above, the application only involving development of one Small House can be tolerated on traffic grounds.
11.	Drainage impact?		✓	- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) advises that an approval condition requiring the submission and implementation of drainage proposal is required.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning perspective, having reviewed the tree preservation and removal proposal in the applicant's FI ( <b>Appendix Ia</b> ). Significant adverse impact on the landscape character and existing landscape resources within the Site arising from the proposed use is not anticipated.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no geotechnical comments on the application.
14.	Local objections conveyed by DO?		✓	- District Officer (Tai Po) (DO(TP)) has no comment on the application.

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments and recommended advisory clauses are provided at **Appendices V** and **VII** respectively.

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

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).

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

On 30.5.2023, the application was published for public inspection. During the statutory public inspection period, one public comment (**Appendix VI**) was received from individual objecting to the application mainly for reasons that the proposed development is not in line with the planning intention of “GB” zone; and land is still available within the “V” zone for Small House development.

## **12. Planning Considerations and Assessment**

- 12.1 The application is for a proposed Small House development on the Site which falls within an area zoned “GB” (about 127.2m<sup>2</sup> or 64%) and “V” (about 71.6m<sup>2</sup> or 36%) on the OZP. Although the proposed development is always permitted within “V” zone, it 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. According to the applicant, the uncovered area (about 136.3m<sup>2</sup> or 69%) in “GB” zone is proposed for a landscape area. DAFC has no strong view on the application from nature conservation point of view.
- 12.2 Regarding the Interim Criteria (**Appendix II**), the Site and the proposed Small House footprint fall entirely within the ‘VE’ of Nam Wa Po Village. According to DLO/TP, LandsD, the total number of outstanding Small House applications for Nam Wa Po Village is 10 while the 10-year Small House demand forecast is 197. Based on the latest estimate by PlanD, about 2.12 ha of land (equivalent to about 84 Small House sites) is available within the “V” zone of the concerned village (**Plan A-2b**). While land available within the “V” zone is insufficient to fully meet the total future Small House demand of 207 Small Houses, it is capable of meeting the outstanding 10 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 August 2015. Among 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 more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is located at the eastern fringe of Nam Wa Po Village, and is in close proximity to the existing village cluster of Nam Wa Po to its immediate west. Also, there is a substantive part (about 90.4%) of the Small House footprint falling within the “V” zone. Therefore, special consideration could be given to the application.
- 12.3 The Site is vacant and covered with vegetation and some fruit trees. The surrounding areas are predominantly rural in character comprising small houses, clusters of tree groups and watercourse. CTP/UD&L of PlanD has no objection to the application having reviewed the tree preservation and removal proposal in the applicant’s FI (**Appendix Ia**) in that three existing fruit trees at



the Site will be preserved and shrub planting are proposed. Significant adverse landscape impact arising from the proposed development is not anticipated.

- 12.4 The Site falls within the upper indirect WGGs, and the applicant proposes to connect the proposed Small House to existing public sewerage system (**Plan A-2a**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the proposed development to the existing public sewer at his own costs and reserve adequate land for the sewer connection work. CE/MN of DSD recommends an approval condition requiring the submission and implementation of drainage proposal. Other concerned government departments including D of FS, CHE/NTE of HyD, H(GEO) of CEDD and DO(TP) of HAD have no objection to or no adverse comment on the application. Given that the proposed Small House is not expected to cause significant adverse impacts on the surrounding areas, the current application is generally in line with TPB-PG No. 10.
- 12.5 There are five similar applications in the vicinity of the Site, and four of them were approved and one was rejected. As regards the rejected Application No. A/NE-KLH/562 where only 10% of the Small House footprint fell within the “V” zone, it was rejected for 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. It should be noted that a substantive part (about 90.4%) of the Small House footprint under the current application falls within the “V” zone. The planning circumstances of the rejected application are different from the current application.
- 12.6 Regarding the public comment objecting to the application as detailed in paragraph 11 above, comments of government departments and the planning assessment 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 comment 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 14.7.2027, 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 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**.

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" 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 planning justification in the submission for a departure from such planning intention; and
- (b) land is still available within the "Village Type Development" zone of Nam Wa Po Village 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 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 reason(s) for rejection should be given to the applicant.

## **15. Attachments**

<b>Appendix I</b>	Application Form received on 18.5.2023
<b>Appendix Ia</b>	FI received on 4.7.2023
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Extract of 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
<b>Appendix IV</b>	Similar Applications
<b>Appendix V</b>	Detailed Comments from Relevant Government Departments
<b>Appendix VI</b>	Public Comment
<b>Appendix VII</b>	Recommended Advisory Clauses

<b>Drawing A-1</b>	Proposed Layout Plan
<b>Drawing A-2</b>	Proposed Sewerage Connection Plan
<b>Drawing A-3</b>	Tree Survey 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 within “V” zone of Nam Wa Po Village for Small House Development
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photo

**PLANNING DEPARTMENT  
JULY 2023**