

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

**APPLICATION NO. A/NE-MUP/160**

**Applicant** : Mr. TANG Ah Wing represented by Glister Engineering Consultants Company

**Site** : Lot 575 in D.D. 46, Loi Tung Village, Man Uk Pin, New Territories

**Site Area** : 211 m<sup>2</sup> (about)

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11

**Zoning** : “Green Belt” (“GB”)

**Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

**1. The Proposal**

1.1 The applicant, who claims himself an indigenous villager of Loi Tung Village in Sha Tau Kok Heung<sup>1</sup>, seeks planning permission to build an NTEH (Small House) on the application site (the Site) in Loi Tung Village, Man Uk Pin (**Plans A-1 and A-2a**). The Site falls within an area zoned “GB” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ in “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently covered by some wild grasses.

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09 m <sup>2</sup>
Number of Storeys	: 3
Building Height	: 8.23 m
Roofed Over Area	: 65.03 m <sup>2</sup>

1.3 Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden area.

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<sup>1</sup> As advised by District Lands Officer/North, Lands Department (DLO/N, LandsD), the applicant claimed himself to be an indigenous villager of Loi Tung Village of Sha Tau Kok Heung. His eligibility for Small House concessionary grant has yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) which was received by the Board on 18.8.2021.

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

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**. They can be summarised as follows:

- (a) the applicant is the registered owner of the Site and the Site falls mostly within the village 'environs' ('VE') of Loi Tung Village;
- (b) the applicant is an indigenous villager of Loi Tung Village and is entitled for Small House Grant under the Small House policy;
- (c) the proposed development is compatible with the surrounding environment and land use; and
- (d) there are other similar applications approved in the vicinity of the Site.

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

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

## **4. Assessment Criteria**

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

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

The Town Planning Board Guidelines No. 10 for 'Application for Development within "GB" Zone under Section 16 of the Town Planning Ordinance' (TPB PG-No.10) are relevant to this application. The relevant assessment criteria are summarized 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 New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted;

- (c) redevelopment of existing residential development will generally be permitted up to the intensity of the existing development;
- (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. Tree preservation and landscaping proposals should be provided;
- (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;
- (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; and
- (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.

## **6. Previous Application**

There is no previous application for the Site.

## **7. Similar Applications**

- 7.1 There are 2 similar applications for Small House development within the “GB” zone (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 7.2 Applications No. A/NE-MUP/141 and 142 were rejected on 31.5.2019 after the adoption of a more cautious approach by the Board mainly on the considerations that the proposed developments did not comply with the Interim Criteria in that land was still available within the “V” zone for Small House development; and the proposed developments did not comply with relevant Town Planning Board Guidelines for development within “GB” zone in that the proposed development would cause adverse landscape impact on the surrounding areas.
- 7.3 Details of the similar 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, A-2a and A-2b, aerial photo on Plan A-3b and site photos on Plan A-4)**

8.1 The Site is:

- (a) covered by wild grasses;
- (b) located to the south-east of the “V” zone of Loi Tung Village; and

- (c) accessible via a footpath.

8.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with a mature secondary woodland adjoining its eastern part; and
- (b) to the further north-west are village houses within the village proper of Loi Tung Village.

## 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 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 proposed Small House	-  -	100%  100%	- The Site and footprint of the proposed Small House fall within an area zoned “GB”.
2.	Within ‘VE’?  - The Site  - Footprint of the proposed Small House	65%  99%	35%  1%	- DLO/N, LandsD advises that majority of the footprint of the proposed Small House falls within the ‘VE’ of Loi Tung Village.
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> - Land required to meet the Small House demand in Loi Tung Village: about 12.68 ha (equivalent to 507 Small House sites). The outstanding Small House applications for Loi Tung Village are 31 <sup>2</sup> while the 10-year Small House demand forecast for the same village is 476.

<sup>2</sup> Among the 31 outstanding Small House applications, 19 of them fall within the “V” zone and 12 straddle or outside the “V” zone. For those 12 applications straddling or outside the “V” zone, 4 of them have 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 application?	✓		<u>Land Available</u> - Land available to meet the Small House demand within the "V" zone of Loi Tung Village: about 1.72 ha (equivalent to 68 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 the "GB" zone.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominated by village houses, tree groups and fallow agricultural land.
6.	Within Water Gathering Grounds (WGGs)?		✓	- 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. The applicant is reminded to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD.
9.	Traffic impact?	✓		- Commissioner for Transport (C for T) has reservation on the application and 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 resulting cumulative adverse traffic impact could be substantial.  - Notwithstanding the above, the application involves construction of one Small House. She considers that the application can be tolerated unless being rejected on other grounds.

	<b>Criteria</b>	<b>Yes</b>	<b>No</b>	<b>Remarks</b>
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required for the application.
11.	Sewage impact?		✓	- Director of Environmental Protection (DEP) advises that in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
12.	Landscaping impact?	✓		- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from the landscape planning perspective. The Site is currently a scrubland covered by wild grasses. It was part of the mature secondary woodland to its east. Tree and vegetation removal was found at the western part of the Site and its surrounding area in 2017 ( <b>Plan A-3a</b> ). Significant adverse landscape impact within the Site had taken place prior to planning permission. Moreover, there is no similar approved planning application within the same "GB" zone. There is a concern that the proposed development, if approved, would encourage more similar developments within the area resulting in landscape character alteration. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment in the same "GB" zone.
13.	Local objection conveyed by DO?		✓	- District Officer (North) (DO(N)) advises that all consultees have no comment on the application.

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

- (a) DLO/N, LandsD;
- (b) C for T;
- (c) DEP;
- (d) CE/C, WSD;

- (e) CTP/UD&L, PlanD;
- (f) CE/MN, DSD;
- (g) D of FS; and
- (h) DO(N), HAD.

10.3 The following government departments have no adverse comment on the application:

- (a) Director of Agricultural, Fisheries and Conservation; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

## **11. Public Comments Received During Statutory Publication Period (Appendix V)**

On 27.8.2021, the application was published for public inspection. During the statutory public inspection period, four public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Kadoorie Farm and Botanic Garden and two individuals object to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; land is available within the “V” zone for Small House development; the proposed development would cause environmental impact to the surrounding areas; there are similar rejected planning applications in the vicinity of the Site; setting of undesirable precedent for other similar applications within the “GB” zone; and intensive development of Small Houses in the area would pose fire risk to the local community.

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

- 12.1 The application is for a proposed Small House development at the Site zoned “GB” on the OZP. The proposed development is not in line with the planning intention for 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. The applicant has not provided strong justification in the submission for a departure from the planning intention of the “GB” zone.
- 12.2 DLO/N, LandsD advises that majority of the Site falls within the ‘VE’ of Loi Tung Village. Based on DLO/N, LandsD’s records, the total number of outstanding Small House applications for Loi Tung Village is 31 while the 10-year Small House demand forecast for the same village is 476. According to the latest estimate by PlanD, about 1.72 ha (equivalent to 68 Small House sites) of land are available in the “V” zone of Loi Tung Village for Small House development (**Plan A-2b**).
- 12.3 The Site is currently a scrubland covered by wild grasses (**Plan A-4**). It was part of the mature secondary woodland to the east. Tree and vegetation removal was found at the western part of the Site and its surrounding area in 2017 (**Plan A-3a**). Significant adverse landscape impact within the Site had taken place prior to planning permission. Moreover, there is no similar approved planning application within the same “GB” zone. There is a concern that the proposed development, if approved, would encourage more similar developments within the area resulting in landscape character alteration. The cumulative impact of such approval would further degrade the landscape quality of the surrounding environment in the same “GB” zone. In this regard, CTP/UD&L of PlanD has reservation on the application. The proposed development will affect the existing natural landscape and the applicant fails to demonstrate that the proposed development

will not have adverse landscape impact on the surrounding area, it therefore does not comply with the TPB PG-No.10 and the Interim Criteria.

- 12.4 C for T considers that Small House development should be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House, the application could be tolerated. Other relevant government departments, including DAFC, DEP, CE/C of WSD, CE/MN of DSD and D of FS, have no adverse comment on / no objection to the application.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed Small House falls within the ‘VE’ of Loi Tung Village (**Plan A-2a**). While land available within the “V” zone of the concerned village is insufficient to fully meet the future Small House demand of 507 Small Houses, it is noted that land (about 1.72 ha or equivalent to 68 Small House sites) is still available within the “V” zone to meet the 31 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. As such, 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.
- 12.6 There is no previous application for the Site. There are 2 similar applications No. A/NE-MUP/141 and 142 for Small House development within the “GB” zone which were rejected in May 2019 after the adoption of a more cautious approach by the Board. These applications were rejected mainly on the considerations that the proposed developments did not comply with the Interim Criteria in that land was still available within the “V” zone for Small House development; and the proposed developments did not comply with relevant Town Planning Board Guidelines for development within “GB” zone in that the proposed development would cause adverse landscape impact on the surrounding areas. The circumstances of the current application are similar to those rejected applications.
- 12.7 Regarding the public comments mentioned in paragraph 11 above, government departments’ comments and 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 above, 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 “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 in the submission for a departure from the planning intention;



- (b) 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 NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas; and
  - (c) land is still available within the “V” zone of Loi Tung Village 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 infrastructures and services.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.10.2025, 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 Conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) 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 VI**.

**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 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 attachments received on 18.8.2021
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/ Small House in New Territories
<b>Appendix III</b>	Similar s.16 Applications
<b>Appendix IV</b>	Detailed Comments from Relevant Government Departments
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses

**Drawing A-1**

**Plan A-1**

**Plan A-2a**

**Plan A-2b**

**Plan A-3a**

**Plan A-3b**

**Plan A-4**

Layout Plan

Location Plan

Site Plan

Estimated Amount of Land Available within the “V” zone of Loi  
Tung Village for Small House Development

Aerial Photo in 2017

Aerial Photo in 2021

Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2021**