

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-STK/27

- Applicant** : Mr. WONG Hok Tak represented by Mr. PANG Hing Yeun
- Site** : Lot 402 in D.D. 40 and adjoining Government Land (GL), Sha Tsui, Sha Tau Kok, New Territories
- Site Area** : About 50.65m² (includes GL of about 18.93m² or 37% of the Site)
- Lease** : Block Government Lease (demised for 'House' use)
- Plan** : Approved Sha Tau Kok Outline Zoning Plan (OZP) No. S/NE-STK/2
- Zoning** : "Green Belt" ("GB")
- Application** : Proposed House (New Territories Exempted House (NTEH)) (not Small House)

1. The Proposal

1.1 The applicant seeks planning permission to build a NTEH at the application Site (the Site)(**Plan A-1**). The Site falls within an area zoned "GB" on the OZP. According to the Notes of the OZP, 'House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)' is a Column 2 use within the "GB" zone which requires planning permission from the Town Planning Board (the Board). The Site is vacant and covered with grass.

1.2 Details of the proposed NTEH are as follows:

Total Floor Area	:	95.16m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	31.72m ²

1.3 The footprint of the proposed NTEH falls entirely within the subject lot. The applicant indicates that the remaining uncovered GL of the Site would be used for construction of septic tank and drainage channels/pipes, as well as serving as circulation area for the proposed NTEH. Layout of the proposed NTEH (including septic tank) is shown in **Drawing A-1**.

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

- (a) Application Form with attachments received on 7.10.2024 (Appendix I)
 - (b) Further Information (FI) received on 14.11.2024* (Appendix Ia)
 - (c) FI received on 29.11.2024* (Appendix Ib)
- *accepted and exempted from the publication and recounting requirements*

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**, and summarized as follows:

- (a) the Site is located at Shan Tsui, an indigenous village with a long history, and the Site was previously built with a house. The applicant, being an indigenous villager, is the successor of the subject lot;
- (b) the proposed NTEH development would not involve felling of trees. Considering its small scale, adverse environmental impact is not anticipated; and
- (c) if an access road connecting to the Site is required, necessary planning permission from the Board would be sought.

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. For the GL within the Site, the requirements as set out in the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) are not applicable.

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 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) is relevant to this application. The relevant assessment criteria are at **Appendix III**.

6. **Previous Application**

The Site is not the subject of any previous application.

7. Similar Application

- 7.1 There is one similar application No. A/DPA/NE-STK/1 for proposed house (NTEH - Small House) partly within the same “GB” zone in the vicinity of the Site in the Sha Tau Kok area since the first promulgation of the Interim Criteria on 24.11.2000. The application was rejected by the Board on review on 13.7.2012 mainly on the grounds that the proposed development was not in line with the planning intention of the “GB” zone; and it was not in line with TPB-PG No. 10 and the Interim Criteria in that it would cause adverse landscape impacts on the surrounding area.
- 7.2 Details of the similar application are summarized at **Appendix IV** and its location is shown on **Plan A-1**.

8. The Site and its Surrounding Areas (Plans A-2a to A-4)

- 8.1 The Site is:
- (a) vacant and covered with grass;
 - (b) falling within the village ‘environ’ (‘VE’) of Shan Tsui and at the southern fringe of the “GB” zone; and
 - (c) about 20m from the nearest vehicular access.
- 8.2 The surrounding areas are rural in character comprising mainly village houses, active/fallow agricultural lands, parking of vehicles and unused land. The village cluster of Shan Tsui within the “Village Type Development” (“V”) zone is located to the south of the Site.

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 following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the applicant submitted an application for redevelopment of NTEH with roofed-over area of 31.7m² on the subject lot to her office. The location of the proposed septic tank and soakage pit as shown in the Application Form in the planning application is the same as that in the redevelopment

application. The redevelopment application is under processing;

- (b) the Site comprises the subject lot and adjoining GL. The lot is an Old Schedule House Lot held under the Block Government Lease. No consent is given for inclusion of the GL (about 18.93m² mentioned in the Application Form) in the Site and no right-of-way is given to the subject lot. The applicant should be reminded that any occupation of GL without Government's prior approval is an offence; and
- (c) no GL will be included in the redevelopment proposal except one septic tank (if approved) but not others as mentioned in the Application Form. Inclusive of GL in the planning application site should not be construed as implied consent from Government for occupation of GL.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) has reservation on the application;
- (b) NTEH 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; and
- (c) notwithstanding the above, the application only involving development of one NTEH can be tolerated unless being rejected on other ground.

10.1.3 Comments of the Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) no comment from the highways maintenance point of view;
- (b) the proposed access arrangement of the Site should be commented and approved by the Transport Department (TD);
- (c) adequate drainage measures shall be provided to prevent surface water running from the Site to the nearby public road and drains; and
- (d) the access road connecting to the Site with the nearby public road is not and will not be maintained by his office. His office should not be responsible for maintaining any access connecting to the Site.

Nature Conservation

10.1.4 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) his site inspection in August 2024 revealed that the Site is covered with common plant species. As such, he has no strong view on the application from nature conservation perspective; and

- (b) it is noted there is no existing access to the Site, he trusts the Board will take into account the additional impact from the access when considering the application.

Landscape

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) based on the aerial photo taken on 21.2.2023, the Site is vacant with no sensitive landscape resources. According to the Application Form, there is no existing trees within the Site; and
- (b) with reference to the aerial photo of 2023, the Site is located in an area of rural coastal plains landscape character comprising village houses, vegetated areas, tree clusters and woodlands to the north and northwest within the “GB” zone. There is a concern that approval of the application may alter the landscape character and degrade the landscape quality of the “GB” zone.

Environment

10.1.6 Comments of the Director of Environmental Protection (DEP):

in view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

no objection in principle to the application at this stage provided that the proposed house would not encroach on any existing emergency vehicular access (EVA) or planned EVA under application in accordance with LandsD’s record.

Drainage

10.1.8 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

no objection to the application from the public drainage viewpoint; and

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD).

11. Public Comments Received During Statutory Publication Period

On 15.10.2024, the application was published for public inspection. During the statutory public inspection period, five public comments were received (**Appendix V**). Four comments from the World Wide Fund for Nature Hong Kong, Kadoorie Farm & Botanic Garden Corporation, The Conservancy Association and an individual object to the application mainly on the grounds that the application is not in line with the planning intention of the “GB” zone; the proposed development does not comply with TPB PG-No. 10 and the Interim Criteria; the Site is located in a distance from the “V” zone where land is still available for NETH development; the subject “GB” zone is well-wooded and forms a continuous belt with the woodland within the Robin’s Nest Country Park; the approval of the application would set an undesirable precedent for other similar applications in “GB” zone; and the approval of the application may jeopardise the Wutong Mountain/ Robin’s Nest/ Pat Sin Leng Ecological Corridor mentioned in the Northern Metropolis Development Strategy. One comment from a member of the North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for the proposed development of a NTEH (not Small House) at the Site zoned “GB” on the OZP. The proposed NTEH 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. Nevertheless, DAFC has no strong view on the application from nature conservation point of view noting that the Site is covered with common plant species. The special circumstances as mentioned in paragraph 12.3 below are also relevant.
- 12.2 The Site, which is vacant and covered with grass, is located at the southern fringe of the “GB” zone and in the vicinity of the village cluster of Shan Tsui in “V” zone. The surrounding areas of the Site are rural in character comprising mainly village houses, active/fallow agricultural lands, parking of vehicles and unused land. No existing trees are found within the Site. While CTP/UD&L, PlanD has concern that approval of the application may alter the landscape character and degrade the landscape quality of the “GB” zone, she noted that the Site is vacant with no sensitive landscape resources. Other relevant government departments including the D of FS, DEP, C for T and CE/MN, DSD have no objection to or adverse comments on the application. Regarding DLO/N, LandsD’s comment that no GL will be included in the redevelopment proposal submitted to her office, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. In view of the above, the proposed development is generally in line with the TPB PG-No. 10.
- 12.3 According to assessment criterion (c) under the Interim Criteria (**Appendix II**), NTEH applications with more than 50% of the footprint outside the ‘VE’ and “V” zone would normally not be approved unless under very exceptional circumstances such as having a building status under the lease. As advised by DLO/N, LandsD, the subject lot within the Site is an Old Schedule House Lot held under the Block Government Lease, and the footprint of the proposed NTEH falls entirely within the subject lot. In accordance with the Interim Criteria, sympathetic consideration could be given to the application. As each application would be considered on its individual merits, approval of the current application would unlikely set an undesirable precedent for similar applications within the “GB” zone.

- 12.4 There is a similar application No. A/DPA/NE-STK/1 for proposed house (NTEH - Small House) in the vicinity of the Site which was rejected by the Board on review on 13.7.2012 as detailed in paragraph 7.1 above. The current application is subject to different circumstance as the subject lot within the Site is an Old Schedule House Lot carrying building status.
- 12.5 Regarding the public comments as detailed in paragraph 11, government departments' comments and planning assessments above are relevant. With regard to the objecting public comment concerning that the approval of the application may jeopardise the Wutong Mountain/ Robin's Nest/ Pat Sin Leng Ecological Corridor, it should be noted that the Site is located at the fringe of the "GB" zone with a relatively small size (about 50.65m²), and DAFC has no strong view on the application from nature conservation point of view.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments as detailed in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permissions shall be valid until 6.12.2028, and after the said date, the permissions shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The recommended advisory clauses are attached at **Appendix VI**.
- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

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 planning justification in the submission for a departure from the planning intention.

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 and advisory clause(s) 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 with attachment received on 7.10.2024
Appendix Ia	FI received on 14.11.2024
Appendix Ib	FI received on 29.11.2024
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Relevant extracts of TPB PG-No. 10
Appendix IV	Similar Application
Appendix V	Public Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed NTEH Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**