

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/708

<u>Applicant</u>	Mr. LEUNG Ching Kong represented by Mr. HUI Kwan Yee
<u>Site</u>	Lot 1661 RP (Part) in D.D. 17, Lo Tsz Tin Village, Tai Po, New Territories
<u>Site Area</u>	About 135m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zonings</u>	“Village Type Development” (“V”) (about 78%) and “Recreation” (“REC”) (about 22%)
<u>Application</u>	Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who is an indigenous villager of Lo Tsz Tin Village¹ as confirmed by the respective Indigenous Inhabitant Representative (IIR), seeks planning permission to build a NTEH (Small House) on the Site (**Plans A-1 and A-2a**). The Site falls mainly within “V” zone (about 78%) with the remaining portion within “REC” zone (about 22%) on the approved Ting Kok OZP No. S/NE-TK/19. According to the Notes of the OZP, while ‘House (NTEH only)’ is always permitted within “V” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “REC” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH (Small House) 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 The Site is accessible by a local vehicular track. The applicant proposes to connect the Site with an existing public sewer nearby. The layout of the proposed development and sewerage connection is shown on **Drawing A-1**.

¹ According to District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), the applicant’s eligibility of Small House grant has yet to be ascertained.

- 1.4 In support of the application, the applicant has submitted the application form with attachments (**Appendix I**) received on 12.5.2021.

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**. They can be summarized as follows:

- (a) the Site is a vacant agricultural land;
- (b) the proposed development is for residence use;
- (c) there is no other available land for development;
- (d) there are similar village houses near the Site; and
- (e) the application is to facilitate Small House grant application being processed by DLO/TP, LandsD.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of the subject 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 NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2023 and 7.9.2007. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Previous Application

- 5.1 There is no previous application at the Site.

6. Similar Applications

- 6.1 There are 9 similar applications in the vicinity of the Site for Small House development within/partly within the same “V” and “REC” zones (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000.
- 6.2 A total of 8 applications (Nos. A/NE-TK/145, 146, 168, 209, 229, 454, 516 and 527) were approved with conditions by the Committee between 2002 and 2014 before the Board’s adoption of a more cautious approach in considering Small House applications in recent years. They were approved mainly on the considerations that more than 50% of the proposed Small House footprint fell within the “V” zone and there was a general shortage of land to meet the demand for Small House development in the “V” zone at

the time of consideration.

- 6.3 The remaining application No. A/NE-TK/608 involving a site which entirely falls within the “REC” zone was rejected by the Board on review in 2017 mainly for the reasons that the proposed development was not in line with the planning intention of the “REC” zone; more than 50% of the proposed Small House footprint fell outside the “V” zone and village ‘environs’ (‘VE’); land was still available within the “V” zone for Small House development; and approving the application would set an undesirable precedent for other similar applications.
- 6.4 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2a, A-2b, A-3 and A-4)

- 7.1 The Site is:
- (a) located at the southern fringe of village proper of Lo Tsz Tin;
 - (b) outside the ‘VE’ of Lo Tsz Tin Village;
 - (c) currently vacant with a few trees;
 - (d) accessible via a local track leading to Ting Kok Road.
- 7.2 The surrounding areas are predominantly rural in character with a mix of village houses, temporary structures and vacant land. To its immediate north and west are clusters of village houses, some of which straddle across “V” and “REC” zones with planning approvals. To its south and southeast are mainly barbecue sites, vehicle parks and vacant land (**Plans A-2a** and **A-2b**).

8. Planning Intentions

- 8.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for the development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 8.2 The “REC” zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

- 9.1 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	78% 93%	22% 7%	- The remaining portion of the Site and Small House footprint fall within “REC” zone.
2.	Within ‘VE’? - The Site - Footprint of the proposed Small House	- -	100% 100%	- District Lands Officer/Tai Po, Lands Department (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 forecast)?		✓	<u>Land Required</u> - Land required to meet Small House demand in Lo Tsz Tin: about 3.65ha (equivalent to 146 Small House sites). The outstanding Small House applications for Lo Tsz Tin are 26 ² while the 10-year Small House demand forecast for the same village is 120. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of Lo Tsz Tin: about 2.03 ha (equivalent to 81 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “REC” zone?		✓	
5.	Compatible with surrounding area/development?	✓		- The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character with a mix of village houses, temporary structures and vacant land.
6.	Within Water Gathering Grounds (WGGs)?		✓	- Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

² Among the 26 outstanding Small House applications, 22 of them fall entirely within the “V” zone and 4 of them straddle or fall outside the “V” zone. For those 4 applications straddling or being outside the “V” zone (including the current application), none of them has obtained valid planning approval from the Board.

	<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 service installations and emergency vehicular access (EVA)?		✓	- Director of Fire Services (D of FS) has no in-principle objection to the application.
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. Notwithstanding the above, the application involving only development of a Small House can be tolerated unless being rejected on other grounds.
10.	Drainage impact?	✓		- Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application and advises that an approval condition on the submission and implementation of drainage proposal is required.
11.	Environmental and Sewerage 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. She has no objection to the application provided that the proposed Small House will be connected with public sewer by the applicant as proposed.
12.	Landscape impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application as significant adverse landscape impact arising from the proposed development is not anticipated, and the proposed development is considered not entirely incompatible with the surrounding environment of the Site. - Director of Agriculture, Fisheries and Conservation (DAFC) has no

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				comment on the application.
13.	Local objections received from DO?		✓	

9.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments from government departments are at **Appendix IV**.

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

9.3 The following government departments have no objection to or 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);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

10. Public Comments Received During Statutory Publication Period

On 21.5.2021, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for a proposed Small House at the Site which falls mainly within “V” zone (about 78%) with the remaining portion within “REC” zone (about 22%) on the OZP. The planning intention of the “V” zone is primarily intended for development of Small House by indigenous villagers whereas the planning intention of the “REC” zone is for recreational developments for the use of the general public. The proposed development is not in line with the planning intention of the “REC” zone. Nevertheless, it is noted that the majority of the proposed Small House footprint (i.e. about 60.53 m² or 93%) falls within “V” zone. Only a minor portion of it (i.e. about 4.5 m² or 7%) encroaches onto the fringe of the “REC” zone. In this regard, the proposed development will not significantly affect on the integrity of the “REC” zone.

- 11.2 The Site falls entirely outside the 'VE' of Lo Tsz Tin Village. According to DLO/TP, LandsD's record, the total number of outstanding Small House applications for Lo Tsz Tin Village is 26 while the 10-year Small House demand forecast for the village is 120. Based on the latest estimate by PlanD, about 2.03 ha of land (or equivalent to about 81 Small House sites) are available within the "V" zone of the concerned village. DLO/TP, LandsD has no objection to the application.
- 11.3 The Site, currently vacant with a few trees, is located at the southern fringe of village proper of Lo Tsz Tin and is sandwiched between clusters of village houses to the north and west and a local track to the south. According to the CTP/UD&L of PlanD, the existing trees within the Site are of common species, with no old and valuable tree nor tree of large size. Significant impact on the sensitive landscape resources arising from the proposed development is therefore not anticipated. Taken into account that the majority of the Site falls within "V" zone, which is not a landscape sensitive zoning, the proposed development is not entirely incompatible with the surrounding environment (**Plan A-3**). In view of the above, she has no objection to the application from landscape planning perspective. C for T has reservation on the application but considers that the application can be tolerated on traffic grounds as it only involves the development of a Small House.
- 11.4 DEP has no objection to the application provided that the proposed Small House will be connected with the public sewer nearby as proposed by the applicant. CE/MN of DSD has no in-principle objection to the application, and advises that the applicant should submit and implement drainage proposal to ensure no adverse drainage impact to the adjacent areas. Other relevant Government departments including CE/C of WSD, D of FS, CHE/NTE of HyD, PM/N and H(GEO) of CEDD, DAFC, DEMS and DO/TP of HAD have no objection to/adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), the proposed Small House footprint falls entirely outside the 'VE' of Lo Tsz Tin but about 93% of it falls within the "V" zone. While land available within the "V" zone for Small House development (about 2.03ha or equivalent to 81 Small Houses sites) is insufficient to fully meet the future Small House demand (about 3.65ha or equivalent to about 146 Small House sites), such available land is capable to meet the outstanding 26 Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 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. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the "V" zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is bounded by the existing clusters of village houses in the north and west and a local track in the south. Only a minor portion of the proposed Small House footprint (i.e. about 7%) encroaches onto the "REC" zone (**Plan A-2a**). It is unlikely that the approval of this application will form an undesirable precedent for similar applications leading to the proliferation of Small House developments into the "REC" zone. In view of the above, sympathetic consideration might be given to the current application.
- 11.6 The Site is not subject of any previous planning application. There are 9 similar applications within/partly within the same "V" and "REC" zones. Except for

application No. A/NE-TK/608 which is located outside “V” zone and ‘VE’ and was rejected by the Board on review in 2017, all other 8 applications (Nos. A/NE-TK/145, 146, 168, 209, 229, 454, 516 and 527) were approved with conditions by the Committee between 2002 and 2014 before the Board’s adoption of a more cautious approach in considering Small House applications in recent years, mainly on the considerations that more than 50% of the proposed Small House footprint fell within the “V” zone and there was a general shortage of land to meet the demand for Small House development in the “V” zone at the time of consideration. Same as these approved cases, the current application involves a proposed Small House footprint falling predominantly (about 93%) within the “V” zone (**Plan A-2a**).

11.7 No public comment was received during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 9.7.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted has commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

- (a) 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 V**.

- 12.3 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 “Recreation” zone which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from the planning intention; and
- (b) land is still available within the “V” zone of Lo Tsz Tin 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.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 12.5.2021
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories
Appendix III	Similar Applications within the same “V” and “REC” zones on the Ting Kok Outline Zoning Plan
Appendix IV	Comments from Relevant Government Departments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available within the “V” zone of Lo Tsz Tin for Small House Development
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2021**