

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

**APPLICATION NO. A/TP/668**

- Applicants** Mr. LAM Hok Leung Leo  
Mr. LAM Hok Ken Kenny  
Mr. CHUNG Shing Tat  
Mr. YU Sui Weng
- all represented by Mr. HUI Kwan Yee
- Site** Lots 208 S.A RP, 208 S.A ss.2, 208 S.A ss.1 RP and 208 S.A ss.1 S.A in D.D.  
11, Fung Yuen, Tai Po, New Territories
- Site Area** About 569.8m<sup>2</sup>
- Lease** Block Government Lease (demised for agricultural use)
- Plan** Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
- Zoning** “Comprehensive Development Area (1)” (“CDA(1)”)
- Development Restrictions:
- a maximum domestic plot ratio (PR) of 0.64 for whole “CDA(1)” zone
  - building height restriction (BHR): one storey and 17 to 28 storeys as stipulated on the OZP (**Plan A-1**)
- Application** Proposed Four Houses (New Territories Exempted Houses (NTEHs) - Small Houses) and Minor Relaxation of BHR from one storey to three storeys and PR from 0.64 to 1.37

**1. The Proposal**

- 1.1 The applicants, indigenous villagers of Ting Kok and Chung Uk Tsuen of Tai Po Heung as confirmed by their respective Indigenous Inhabitant Representatives (IIRs), seek planning permission to build four NTEHs (Small Houses) on the application site (the Site), which is zoned “CDA(1)” on the approved Tai Po OZP No. S/TP/28, and minor relaxation of BHR from one storey to three storeys and PR from 0.64 to 1.37 to accommodate the proposed Small House developments (**Plan A-1**).
- 1.2 The “CDA(1)” zone is subject to a maximum PR of 0.64 and a maximum BHR of one storey as stipulated on the OZP (**Plan A-1**). According to the

Notes of the OZP, 'House' use within the "CDA(1)" zone requires planning permission from the Town Planning Board (the Board). It is also stipulated in the Notes of the OZP that based on the individual merits of a development or redevelopment proposal, relaxation of the PR and/or BHR may be considered by the Board on application.

- 1.3 The proposed development comprises four NTEHs (Small Houses) with a total PR of about 1.37. Details of each of the proposed Small Houses are as follows:

Total floor area	:	195.09m <sup>2</sup>
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

The uncovered area of the Site would be used for circulation purpose. No new access road or car parking space is proposed. Layout of the proposed Small Houses with septic tanks is shown on **Drawings A-1 to A-4**.

- 1.4 The Site is the subject of a previous application (No. A/TP/577) for the same use submitted by the same applicants, which was approved by the Committee on 13.3.2015. However, that planning permission lapsed on 14.3.2019.

- 1.5 In support of the application, the applicants have submitted the following documents:

- (a) Application form received on 16.7.2019 **(Appendix I)**
- (b) Further Information (FI) received on 29.8.2019 **(Appendix Ia)** providing a plan showing the location of the Site on an approved Master Layout Plan (MLP) under application No. A/TP/333 (*accepted and exempted from publication and recounting requirement*)

## **2. Justifications from the Applicants**

The justifications put forth by the applicants in support of the application as stated in Part 9 of the application form at **Appendix I** are summarized as follows:

- (a) the Site is vacant agricultural land. No other land is available to the applicants for Small House developments. There are similar village houses in the vicinity of the Site;
- (b) as the proposed Small House developments are small in scale, the Board is requested to exempt the applicants from submitting relevant technical assessments;
- (c) the use and development parameters under the current application are same as the previous application (No. A/TP/577) submitted by the same applicants, which was approved by the Board in 2015; and

- (d) the applicants have missed the deadline to apply for extension of the validity period of the planning permission which lapsed on 14.3.2019. As such, a fresh planning application needs to be submitted for the consideration of the Board.

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

The applicants are the sole “current land owners”. 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, 21.3.2003 and 7.9.2007. 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 (TPB PG-No. 18A) for ‘Submission of Master Layout Plan under section 4A(2) of the Town Planning Ordinance’ are relevant to this application. The major relevant points are summarized in **Appendix III**.

**6. Previous Application**

- 6.1 The site is the subject of a previous application (No. A/TP/577) for four proposed Small Houses submitted by the same applicants, which was approved with conditions by the Committee on 13.3.2015. It was approved mainly on the considerations that the proposed Small House developments were not incompatible with the existing residential development (i.e. Mont Vert) within the “CDA(1)” zone ; the development of a few Small Houses would have insignificant impact on the CDA development; and there was no firm program for the remaining “CDA(1)” site not covered by the Mont Vert development. However, the planning permission lapsed on 14.3.2019. The current application is same as the previous approved application (No. A/TP/577) in terms of Small House footprints and development parameters.
- 6.2 Details of the above previous application are summarized at **Appendix IV** and its location is shown on **Plans A-1** and **A-2**.
- 6.3 The “CDA(1)” zone where the Site falls within was the subject of five approved planning applications (No. A/TP/256, 267, 318, 319 and 333) for comprehensive residential development and agricultural uses. The latest planning application No. A/TP/333 was approved on 18.8.2004. According to the approved MLP under Application No. A/TP/333, the comprehensive development consists of the “Development Portion” and “Agricultural Portion”. The Site is located at the western periphery of the “Development Portion” annotated as “private lot owned by others, existing agricultural” on

the MLP (**Plan A-5**) and no specific use or development was proposed for the Site.

## **7. Similar Applications**

- 7.1 There are 15 similar applications for Small House development within the “CDA(1)” zone in the vicinity of the Site (**Plan A-1**) since the first promulgation of the Interim Criteria on 24.11.2000. Out of these applications, 10 were approved and 5 were rejected.
- 7.2 Of the approved applications, seven of them (No. A/TP/339, 340, 370, 371, 372, 373 and 411) were approved with conditions by the Committee between 2004 and 2008 mainly on considerations that a significant part of the Small House footprint or the site fell within the “V” zone. Application No. A/TP/378 was approved in 2006 mainly on the grounds of complying with the Interim Criteria in that there was a general shortage of land within the “V” zone for Small House development at the time of consideration. For Application No. A/TP/438, it was approved in 2009 mainly because the site was the subject of previously approved applications (No. A/TP/339 and 340). The remaining one, Application No. A/TP/369, was approved in 2006 mainly on the grounds that the site was covered by a building licence.
- 7.3 For the five rejected applications (No. A/TP/335, 341, 462, 463 and 595), they were rejected by the Committee or the Board on review between 2004 and 2016 mainly on the considerations of being not in line with the planning intention of the “CDA(1)” zone; and not complying with the Interim Criteria in that there was no general shortage of land in “V” zone for Small House development, and land was still available within the “V” zone.
- 7.4 Details of the above similar applications are summarized at **Appendix V** and their locations are shown on **Plans A-1** and **A-2a**.

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

- 8.1 The Site is:
- (a) generally flat, hard paved and currently used for parking of private cars;
  - (b) entirely within the village ‘environs’ (‘VE’) of Fung Yuen – Lau Hang and Kau Shi Wai; and
  - (c) accessible by a local road branches off Fung Yuen Road.
- 8.2 The surrounding areas mainly consist of village houses of Fung Yuen - Lau Hang, which are located within the “V” zone to the immediate south and west of the Site. Phase One of the comprehensive residential development (i.e. Mont Vert) and agricultural use approved under Application No. A/TP/333 has been completed and is situated to the immediate north and east of the Site.

**9. Planning Intention**

The planning intention of the “CDA(1)” zone is for comprehensive development/redevelopment of the area for low-density residential and agricultural uses with the provision of open spaces and other supporting facilities. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

**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? - Footprints of the proposed Small Houses  - Application site	-	100%	- The Site and the proposed Small House footprints fall entirely within the “CDA(1)” zone.
2.	Within ‘VE’? - Footprints of the proposed Small Houses  - Application site	100%	-	- The Site and the proposed Small House footprints fall entirely within the ‘VE’ of Fung Yuen.  - The 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)?	✓		<u>Land Required</u> - Land required to meet Small House demand in Fung Yuen: about 2.95 ha (equivalent to 118 Small House sites). The outstanding Small House applications are 24 <sup>1</sup> while the 10-year Small House demand forecast is 94 provided by the IIR of Fung Yuen.
	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”

<sup>1</sup> Among the 24 outstanding Small House applications, 18 of them fall within the “V” zone and 6 straddle or outside the “V” zone. For those 6 applications straddling or being outside 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>
				zone of the village concerned: about 4.08 ha (equivalent to 163 Small House sites) ( <b>Plan A-2b</b> ).
4.	Compatible with the planning intention of “CDA(1)” zone?		✓	<ul style="list-style-type: none"> <li>- The planning intention of the “CDA(1)” zone is for comprehensive/ redevelopment of the area for low-density residential and agricultural uses with the provision of open spaces and other supporting facilities.</li> <li>- The Site does not form part of the lot (Tai Po Town Lot 183RP) regranted for the approved comprehensive development (<b>Plan A-2</b>).</li> </ul>
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> <li>- The surrounding areas mainly consist of village houses and to the immediate north of the Site is the comprehensive residential development, Mont Vert.</li> </ul>
6.	Within Water Gathering Ground (WGG)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> <li>- The Director of Fire Services (D of FS) has no objection to the application.</li> </ul>
9.	Traffic impact?		✓	<ul style="list-style-type: none"> <li>- The Commissioner for Transport (C for T) has no objection to the application from traffic engineering point of view.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from public drainage viewpoint.  - Approval condition on drainage proposal is required.
11.	Sewerage impact?		✓	- DEP has no objection to the application.
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no comment on the application as there is no significant landscape resources within the Site and significant landscape impact is not envisaged.
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Construction, Water Supplies Department; and
- (g) Director of Fire Services.

10.3 The following Government departments have no comment on / no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Director of Agriculture, Fisheries and Conservation;
- (c) Director of Electrical and Mechanical Services;

- (d) Project Manager/North, Civil Engineering and Development Department;
- (e) Head of Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (f) District Officer/Tai Po, Home Affairs Department.

## 11. **Public Comment Received During Statutory Publication Period (Appendix VII)**

On 13.8.2019, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that it is more appropriate to concentrate Small House developments within the “V” zone for better land utilization.

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

### *Planning intention*

- 12.1 The application is for four proposed Small Houses at the Site falling within the “CDA(1)” zone on the OZP with minor relaxation of BHR from one storey to three storeys and PR from 0.64 to 1.37 to accommodate the proposed Small Houses. The planning intention of the “CDA(1)” zone is for comprehensive development/redevelopment of the area for low-density residential and agricultural uses with the provision of open spaces and other supporting facilities.
- 12.2 The area within the “CDA(1)” zone is the subject of five applications for comprehensive residential development and agricultural uses. According to the approved MLP of the latest application No. A/TP/333 (**Plan A-5**), the comprehensive development consists of “Development Portion” and “Agricultural Portion”. The Site is located on the western periphery of the “Development Portion” annotated as “private lot owned by others, existing agricultural” without specific use or proposed development on the MLP. The Site also does not form part of the regrant lot (i.e. TPTL 183RP) for the comprehensive residential development (**Plan A-2a**).

### *Land availability for Small House development in the “V” zone*

- 12.3 This is a cross-village application for Small Houses within the same Heung. The Site falls entirely within the ‘VE’ of Fung Yuen – Lau Hang and Kau Shi Wai. According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for Fung Yuen is 24, while the 10-year Small House demand forecast for the village concerned is 94. Based on the latest estimate by the Planning Department, about 4.08 ha of land (equivalent to about 163 Small House sites) are available within the “V” zones of the concerned village. As the footprints of the proposed Small Houses fall entirely within the ‘VE’ of Fung Yuen, DLO/TP, LandsD has no objection to the application.



Land use compatibility

- 12.4 The Site, located at the north-eastern fringe of the village cluster of Fung Yuen - Lau Hang (**Plan A-2a**), is hard paved and currently used for parking of private cars. The proposed development is not incompatible with the surrounding area which is predominantly village houses. CTP/UD&L of PlanD has no comment on the application from landscape planning point of view as there is no significant landscape resources within the Site and significant landscape impact is not envisaged.

Interim Criteria

- 12.5 Regarding the Interim Criteria (**Appendix II**), while more than 50% of the proposed Small House footprints fall within the 'VE' of Fung Yuen – Lau Hang and Kau Shi Wai, there is sufficient land within the "V" zones (about 4.08 ha or equivalent to about 163 Small House sites) to fully meet the future demand of 118 Small Houses (equivalent to about 2.95 ha). As such, the proposed development does not comply with the Interim Criteria in that there is no general shortage of land in meeting the demand for Small House development in the concerned "V" zones. It is therefore 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 a previously approved planning application (No. A/TP/577) for four Small Houses submitted by the same applicants with no change to the footprints and the development parameters of the proposed Small Houses. Moreover, as advised by DLO/TP of LandsD, the Small House grant applications have been approved and execution of the Small House grant documents is pending. Hence, sympathetic consideration could be given to the current application based on its exceptional circumstances in that the implementation of the approved Small House developments is in an advance stage.

Technical considerations

- 12.6 The Notes of the OZP stipulate that application for permission for development on land designated "CDA(1)" shall prepare an MLP together with technical assessments for the approval of the Board. In view of the small scale of the proposed Small Houses, the applicants have requested the Board to exempt the requirement to submit technical assessments (**Appendix I**). Relevant Government departments consulted have no objection to or no comment on the application.

Similar applications

- 12.7 As shown on **Plan A-2a**, there are 14 similar applications for Small House development within the same "CDA(1)" zone in close vicinity of the Site. Nine of them (No. A/TP/339, 340, 369 to 373, 378 and 438) were approved with conditions between 2004 and 2009 mainly on considerations of complying with the Interim Criteria in that more than 50% of the proposed Small House footprint fell within the 'VE'. Application No. A/TP/369 was also approved as the site was covered by a building licence whereas

Application No. A/TP/438 was also approved as the site was the subject of previous approvals (Applications No. A/TP/339 and 340) submitted by the same applicants. The remaining five applications (No. A/TP/335, 341, 462, 463 and 595) were rejected between 2004 and 2016 mainly for the reasons of not complying with the Interim Criteria in that there was no general shortage of land in “V” zone in meeting the Small House demand; and land was still available within the “V” zone for Small House development. The planning circumstances of the current application is similar to application No. A/TP/438 in that the site is the subject of a previous approved application.

Public comment

12.8 Regarding the public comment objecting to the application on the grounds as detailed in paragraph 11, Government departments’ comments 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 comment mentioned 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 permission shall be valid until 6.9.2023, 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 tanks, as proposed by the applicants, at locations to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposals 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 does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zones of Fung Yuen; and

- (b) land is still available within the “V” zones of Fung Yuen 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 conditions and advisory clauses 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 16.7.2019
Appendix Ia	Further Information received on 29.8.2019
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Town Planning Board Guidelines No. 18A
Appendix IV	Previous application
Appendix V	Similar applications
Appendix VI	Detailed comments from relevant Government departments
Appendix VII	Public comment
Appendix VIII	Recommended advisory clauses
Drawings A-1 to A-4	Site plans submitted by the applicants
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 photos
Plan A-5	Location of the Site on the approved MLP under application No. A/TP/333