

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-TMT/62

- Applicant** : Mr. LEE Tat Cheong
- Site** : Government Land in D.D.216, Wo Liu, Sai Kung
- Site Area** : 65.03m²
- Land Status** : Government Land
- Plan** : Approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4
- Zonings** : “Green Belt” (“GB”) (37.72m², 58%)
“Village Type Development” (“V”) (27.31m², 42%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

- 1.1 The applicant, an indigenous villager of Wo Liu Village, seeks planning permission for the development of one NTEH (Small House) on the application site (the Site) (**Plan A-1**). The Site falls partly within the “GB” zone and partly within the “V” zone. 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)’ within the “GB” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board).
- 1.2 The planning parameters of the proposed Small House are as follows:
- | | |
|---------------------|----------------------|
| Site Area: | 65.03m ² |
| Total Domestic GFA: | 195.09m ² |
| No. of Storeys: | 3 |
| Building Height: | 8.23m |
- 1.3 In support of the application, the applicant has submitted the application form dated 15.1.2018 (**Appendix I**).

1.4 The layout plan of the proposed Small House submitted by the applicant is shown in **Drawing A-1**.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

Half of the proposed Small House falls within the “GB” zone of the OZP. Since there is not much land available in Wo Liu Village, the applicant is applying for planning permission.

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

As the Site involves Government land only, the “owner’s consent/notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No.31A) are not applicable to the application.

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 promulgated on 7.9.2007 is at **Appendix II**.

5. **Town Planning Board Guidelines**

Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for Application for Development within “Green Belt” Zone under section 16 of the Town Planning Ordinance’ is relevant to this application (**Appendix III**). The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in the “GB” zone;
- (b) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio (PR), site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (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;

- (e) 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
- (f) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

- 7.1 There are 9 similar applications (Applications No. A/SK-TMT/24, 25, 26, 27, 36, 38, 40, 42, 56) for Small House developments within “GB” zone in the vicinity of the Site on the Tai Mong Tsai and Tsam Chuk Wan OZP (**Plans A-1 and A-2a**).
- 7.2 These applications were rejected by the Committee or the Board on review mainly on the grounds of not in line with the planning intention of the “GB” zone; not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House development in the New Territories; not in line with the TPB Guidelines No.10 for ‘Application for Development within “GB” zone’ in that extensive vegetation clearance would be involved; no information in the submission to demonstrate that the proposed development within the WGG would not pose adverse impact on the water quality of the area; and setting an undesirable precedent for other similar applications within the “GB” zone.
- 7.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1 and A-2a**.

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

- 8.1 The Site is:
 - (a) generally flat and covered by grass/weeds;
 - (b) within the ‘Village Environs’ (‘VE’) of Wo Liu Village; and
 - (c) within the upper indirect WGG.
- 8.2 The surrounding areas have the following characteristics:
 - (a) dense natural vegetation is found in close vicinity and along boundary of the Site;
 - (b) the wider surrounding area is densely vegetated with trees/shrubs;
 - (c) to its south and southwest are village houses within the “V” zone of Wo Liu Village; and
 - (d) to the further north is the “V” zone of the O Tau Village.

9. Planning Intention

- 9.1 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.
- 9.2 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 development of Small Houses by indigenous villagers. It is also intended to provide land for the retention and expansion of existing villages. The planning intention is to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

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? -Footprint of the NTEH/Small House -Application site	✓ 42% 42%		The Site falls partly within “GB” zone (37.72m ² , 58%) and partly within “V” zone (27.31m ² , 42%).
2.	Within ‘VE’? -Footprint of the NTEH/Small House -Application site	100% 100%		
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	<ul style="list-style-type: none"> Land required to meet Small House demand: about 0.28 ha (equivalent to 11 Small House sites). The outstanding Small House applications are 3 while the 10-year Small House demand forecast is 14. Land available to meet Small House demand: about 0.16ha (or equivalent to 6 Small House sites) (Plan A-2b).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “GB” zone?		✓	<p>There is a general presumption against development within the “GB” zone.</p> <p>Director of Agriculture, Fisheries and Conservation (DAFC) advises that the Site is covered with woodland vegetation. He has reservation to the application from the nature conservation perspective.</p>
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are rural in character, with dense natural vegetation in the wider “GB” zone.
6.	Within Water Gathering Ground?	✓		<p>Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) objects to the application as the Site is located within the upper indirect WGG. There is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. It is thus considered that compliance with the Interim Criteria Item (i) cannot be established.</p> <p>Director of Environmental Protection (DEP) objects to the application. He advises that the application site is located within WGG where no public sewer is available. The use of septic tank and soak away system should be avoided in accordance with S.5.3.13, Chapter 9 of the Hong Kong Planning Standards and Guidelines (HKPSG) to protect the WGG from pollution.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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 the 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of formal applications referred by Lands Department.
9.	Traffic Impact?	✓		Commissioner for Transport (C for T) has reservation on the application. Such type of development should be confined within "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 application only involves one Small House, he considers that the application can be tolerated unless it is rejected on other grounds.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application from a drainage maintenance viewpoint, provided that adequate stormwater drainage facilities will be provided in connection with the proposed small house development to deal with the surface runoff of the application site without causing any adverse drainage impacts or nuisance to the adjoining areas.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Landscape Impact?	✓		<p>Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has strong reservation on the application from the landscape planning point of view. She advises that with reference to the aerial photographs in 2014 to 2016 and recent site visit, dense natural vegetation with large tree canopies is found in close vicinity and along boundary of the Site. Since vegetation/tree survey including the tree preservation proposal within and in vicinity of the Site is not provided, the significance of potential impacts on the existing trees/vegetation, with any possible mitigation/preventive measures, cannot be fully ascertained. No information regarding the proposed permanent access to the Site and temporary access for use during the construction/site formation works to be used by the applicant is provided. The potential adverse impacts to the natural existing landscape resources including trees/shrubs cannot be fully ascertained. The depth/finished level of the septic tank and finished floor level of the proposed small house are not given. The impacts on the existing topography of the Site cannot be ascertained.</p> <p>Since the proposed land use will take up the entire site, there is a lack of space for a meaningful landscape planting (including compensatory tree planting) within the Site. It is considered impractical for the implementation of a landscape proposal in case the Board considers approval to the application.</p> <p>Approval of the application would set an undesirable precedent for other similar applications in future,</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				resulting in an overall degradation or modification of the natural landscape character of the area.
12.	Geotechnical Impact?		✓	<p>Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no objection to the planning application.</p> <p>The applicant is reminded to make necessary submission to the DLO to verify if the Site satisfies the criteria for the exemption of site formation works as stipulated in PNAP APP-56. If such exemption is not granted, the applicant shall submit site formation plans to the Buildings Department in accordance with the provisions in the Buildings Ordinance.</p>
13.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	DO/SK, HAD has no comment on the application.

10.2 Comments from the following government departments have been incorporated in the above paragraph. Details of their comments are at **Appendix V**.

- (a) DLO/SK, LandsD;
- (b) DAFC;
- (c) CE/Construction, WSD;
- (d) D of FS;
- (e) C for T;
- (f) CE/MS, DSD;
- (g) CTP/UD&L;
- (h) DEP;
- (i) H(GEO), CEDD; and
- (j) CBS/NTE2&Rail, BD.

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

- (a) Chief Engineer (Works), Home Affairs Department (CE(Works), HAD);
- (b) District Officer /Sai Kung, HAD;
- (c) Project Manager (East), CEDD (PM(E), CEDD); and
- (d) Chief Highway Engineer/New Territories East, Highways Department (CHE/NT East, HyD).

11. Public Comments Received During Statutory Publication Period

- 11.1 On 23.1.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 13.2.2018, a total of five public comments from two individuals, the Kadoorie Farm and Botanic Garden Corporation, the World Wide Fund For Nature Hong Kong and the Sai Kung Rural Committee (SKRC) were received (**Appendix VI**).
- 11.2 Four public comments object to the application on grounds that it is unreasonable to destroy and invade the “GB” zone instead of using vacant land in the “V” zone; not in line with the planning intention of the “GB” zone, the Interim Criteria and Town Planning Board Guidelines TPB-PG No. 10; adverse impacts on the landscape and woodland in the surrounding areas; the applicant fails to demonstrate that the landscape and water quality impacts of the proposed development could be satisfactorily mitigated; and setting an undesirable precedent for similar applications.
- 11.3 The SKRC supports the application on the grounds that the proposed house is for improving the living environment of the applicant and will not bring about any impacts on the surrounding environment. They have consulted the Wo Liu village representatives and villagers also support the application.

12. Planning Considerations and Assessments

- 12.1 The Site for the proposed Small House development falls partly within the “GB” zone (58%) and partly within the “V” zone (42%). The proposed Small House 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 the “GB” zone. No strong planning grounds have been provided in the submission for a departure from the planning intention.
- 12.2 The Site falls within the ‘VE’ of Wo Liu Village. According to DLO/SK, the total number of outstanding Small House application for Wo Liu Village is 3 while the 10-year Small House demand forecast is 14. It is estimated that about 0.16ha (equivalent to about 6 Small House sites) of land are available within the subject “V” zone. Although there is insufficient land to fully meet the future Small House demand of the village in the long run, there is still land currently available within the “V” zone to meet the outstanding demand of 3 Small Houses. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services.
- 12.3 The Site is located partly within “GB” zone and partly within “V” zone. The proposed development is considered not incompatible with the surrounding rural environment. However, DAFC has reservation on the application as the Site is covered with woodland vegetation. CTP/UD&L has strong reservations on the application. She advises that from the vegetation found within and in close vicinity of the Site, it is suggesting that a natural succession of secondary woodland is undergoing in the area. Given the site formation works/construction/ temporary works/access of the Small House that will be involved, the valuable landscape resources of the existing vegetation (mature trees with natural understorey) within and in close vicinity of the Site would be lost. There is no information

provided including the vegetation/tree survey, the proposed access to the Site, the depth/finished level of the septic tank and finished floor level of the proposed small house to demonstrate that there are no potential adverse impacts on the existing natural landscape resources and the existing topography of the Site. The application does not comply with TPB-PG No.10 in that vegetation clearance would be involved and adverse landscape impact is anticipated.

- 12.4 CE/Construction, WSD objects to the application as the Site is located within the upper indirect WGG. Moreover, there is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. DEP also objects to the application from water quality perspective and advises that the use of septic tank and soak away system should be avoided to protect the WGG from pollution.
- 12.5 The approval of the application will set an undesirable precedent for other similar applications in “GB” zone in the future. The cumulative effect of approving such similar applications will result in a general degradation of the environment and bring about adverse impact on the water quality and landscape of the area.
- 12.6 Regarding the public comments objecting to the application, the assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
 - (a) the proposed Small House 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 are no exceptional circumstances or strong planning grounds in the submission for a departure from the planning intention;
 - (b) the proposed development is not in line with TPB-PG No. 10 in that it would involve vegetation clearance and adverse landscape impact is anticipated. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the Site and surrounding areas;
 - (c) the proposed development is not in line with the Interim Criteria in that the Site falls within upper indirect Water Gathering Ground and there is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG;
 - (d) land is still available within the “V” zone of Wo Liu where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster for orderly development pattern, efficient use of land and provision of infrastructures and services; and

(e) approval of the application will set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving such applications will result in a general degradation of the environment and bring about cumulative adverse impact on the water quality and landscape of the area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 2.3.2022, 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 approval condition and advisory clauses are also suggested for Members’ reference:

Approval Condition

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.

Advisory clauses

The recommended advisory clauses are attached at **Appendix VII**.

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 the approval condition(s) 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 forms dated on 15.1.2018
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Town Planning Board Guidelines No.10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’
Appendix IV	Similar applications
Appendix V	Government departments’ detailed comments
Appendix VI	Public comments
Appendix VII	Advisory Clauses
Drawing A-1	Layout Plan submitted by the applicant
Plan A-1	Location Plan
Plans A-2a & 2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**