

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-HH/75

- Applicant:** Mr. SING Cheong Lung represented by Mr. PANG Hing Yuen
- Site:** Lot No. 242 S.O in D.D. 214, Nam Wai, Sai Kung, New Territories
- Site Area:** About 98.67m²
- Lease:** Old Schedule Agricultural Lot held under Block Government Lease
- Plan :** Approved Hebe Haven Outline Zoning Plan (OZP) No. S/SK-HH/8
- Zonings:** “Village Type Development” (“V”) (about 79m² or 80%)
“Green Belt” (“GB”) (about 19.7m² or 20%)
- Application:** Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Nam Wai Village, seeks planning permission to build one NTEH (Small House) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, within the “GB” zone, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board).

1.2 Major development parameters of the proposed Small House are as follows:

Roofed over area	65.03m ²
Total floor area	195.09m ²
No. of Storeys	3
Building Height	8.23m

1.3 The location plan submitted by the applicant is at **Drawing A-1**.

1.4 The Site is the subject of a previous application (No. A/SK-HH/64) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 13.3.2015; however, that planning permission lapsed on 14.3.2019. Compared with the previous application (No. A/SK-HH/64), the footprint and development parameters of the

proposed Small House remain the same under the current application.

- 1.5 In support of the application, the applicant has submitted the application form with attachments which was received on 10.6.2020 at **Appendix I**.
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application and the application is now scheduled for consideration by the Committee at this meeting.

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 summarised as follows:

- (a) the applicant is an indigenous villager of Nam Wai Village and has the right to develop a NTEH under the prevailing Small House policy;
- (b) the footprint of the proposed NTEH falls mainly within an area zoned “V” in Nam Wai;
- (c) the applicant only owns this piece of land for development of a NTEH;
- (d) as there are NTEHs in the vicinity of the Site, the proposed Small House is compatible with the surroundings. There are houses nearby which also fall mainly within the “V” zone and partly within the “GB” zone;
- (e) the Site has no trees and is located away from the stream nearby, so the application would not create adverse environmental impact; and
- (f) planning application No. A/SK-HH/64 submitted by the applicant was approved in 2015 and the application has not been renewed due to negligence. Sai Kung District Lands Office is still processing the Small House application.

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

The applicant is the sole “current land owner” of the land. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of interim criteria for assessing planning application for NTEH/Small House development in the New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. 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, site coverage and building height should be compatible with the character of surrounding areas;
- (c) applications for NTEH 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;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (g) any proposed development on a slope of hillside should not adversely affect slope stability.

6. **Previous Application (Plan A-2a)**

6.1 The Site is the subject of a previous application No. A/SK-HH/64 submitted by the same applicant, which was approved by the Committee on 13.3.2015. The application was approved mainly on grounds that majority of the application site and Small House footprint fall within the “V” zone, the proposed Small House was considered compatible with the surrounding area which generally meets TPB PG-No.10; and general compliance with the Interim Criteria.

6.2 Details of the above previous application are summarized at **Appendix III** and its location is shown on **Plans A-1** and **A-2a**.

7. **Similar Applications (Plan A-1)**

7.1 There have been three similar applications for Small House developments in the

same “GB” zone on the OZP (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. Applications No. A/SK-HH/66, 67 and 68 were rejected by the Committee on 7.8.2015 mainly on grounds that the proposed Small House development is not in line with the planning intention of the “GB” zone; not in compliance with TPB PG-No.10; land is still available within the “V” zone of Nam Wai Village; and setting of an undesirable precedent.

8. The Site and its Surrounding Areas (Plans A-1, A-2a and A-2b and photos on Plans A-3, A-4a and A-4b)

8.1 The Site is:

- (a) located on a slope partly covered with grass sloping down from south west to north east;
- (b) located entirely within the Village Environs (‘VE’) of Nam Wai Village and Nam Wai Site of Archaeological Interest (SAI); and
- (c) accessible from a footpath leading from Nam Wai Road to its north and a footpath leading from a village road leading to Color By The River to its southwest.

8.2 The surrounding areas have the following characteristics:

- (a) surrounded by 3-storey village-type houses to its immediate north, east and south (**Plans A-4a and A-4b**). A stream course is located to its east;
- (b) to the further east and across the stream course is the residential development of River King Villa within the “V” zone;
- (c) residential development namely Colour By The River is to its further south;
- (d) to its west and southwest is an area zoned “GB” and with predominantly vegetated steep slopes; and
- (e) Hiram’s Highway is to its further west and southwest.

9. Planning Intention

9.1 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 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 infrastructure and services.

9.2 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 of the application is summarized in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	<p>Within “V” zone?</p> <p>- Footprint of the NTEH/Small House</p> <p>- Application site</p>	<p>87%</p> <p>80%</p>	<p>13%</p> <p>20%</p>	<p>The major portion of the Site and the Small House footprint fall within the “V” zone, while the remaining portion fall within the “GB” zone.</p>
2.	<p>Within ‘VE’?</p> <p>- Footprint of the NTEH/ Small House</p> <p>- Application site</p>	<p>100%</p> <p>100%</p>		<ul style="list-style-type: none"> The Site and the Small House footprint fall entirely within the ‘VE’ of Nam Wai. District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> Land required to meet Small House demand: about 5.53 ha (equivalent to 221 Small House sites). The outstanding Small House applications are 54¹ while the 10-year Small House demand forecast is 167.
	<p>Sufficient land in “V” zone to meet outstanding Small House applications?</p>	✓		<p><u>Land Available</u></p> <ul style="list-style-type: none"> Land available to meet Small House demand: about 4.9 ha (equivalent to 196 Small House sites) (Plan A-2b)

¹ Among the 54 outstanding Small House applications, 46 of them fall within the “V” zone and 8 of them are outside the “V” zone, none of the Small House applications obtained planning approval.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of "GB" zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application. The Site is the same as previously approved application No. A/SK-HH/64.
5.	Compatible with surrounding area/ development?	✓		The Site is located to the south of Nam Wai village. There are existing village houses in the vicinity (Plan A-1 and A-2a).
6.	Within Water Gathering Ground (WGG)?		✓	The Site does not fall within WGG. The Director of Environmental Protection (DEP) and Chief Engineer/ Construction, Water Supplies Department (CE/Construction, WSD) have 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 specific comment on the application.
9.	Traffic Impact?		✓	Commissioner for Transport (C for T) has no objection in-principle to the application from traffic engineering perspective.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no adverse comment on the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Sewerage Impact?		✓	DEP has no adverse comment on the application as the applicant is committed to install sewage septic tank for sewage treatment for the proposed development.
12.	Landscaping Impact?		✓	Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from landscape planning point of view.
13.	Geotechnical Impact?		✓	Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the application.
14.	Local objection conveyed by DO?		✓	District Officer/ Sai Kung (DO/SK, HAD) has no comment on the application.

10.2 Comments from the following government departments have been incorporated in the above paragraph. Other 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) DEP;
- (h) CTP/UD&L, PlanD;
- (i) DO/SK, HAD;
- (j) H(GEO), CEDD;
- (k) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office, Development Bureau (ES(AM), AMO, DEVB); and
- (l) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department.

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

- (a) Chief Engineer (Works), Home Affairs Department; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

11. Public Comments Received During Statutory Publication Period

On 19.6.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 10.7.2020, one comment was received from an individual (**Appendix VI**) raising concerns on the application mainly on the desirability of keeping “GB” zone intact; the development which is within WGG should only be supported if it is connected to the public sewerage system; and that insufficient land in “V” zone to fulfil demand for Small House applications should not be a consideration.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed Small House development at the Site mainly zoned “V” (about 80%) with a portion zoned “GB” (about 20%) on the OZP. 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. While the proposed Small House development is not in line with the planning intention of the “GB” zone, DAFC has no comment on this application.
- 12.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD’s record, the total number of outstanding Small House applications for Nam Wai Village is 54 while the 10-year Small House demand forecast is 167. Based on the latest estimate by the Planning Department, about 4.9ha (equivalent to 196 Small House sites) are available within the “V” zone concerned. While land available within the “V” zone is insufficient to meet the future Small House demand, land is available within the “V” zone to meet the outstanding 54 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 infrastructure and services. Nevertheless, the majority of the Site (about 80%) falls within the “V” zone and the footprint of the proposed Small House falls entirely within the “VE” of Nam Wai Village. Planning permission was granted to the previous application (No. A/SK-HH/64) submitted by the same applicant but lapsed on 13.3.2019. According to DLO/SK, the applicant has applied for a Small House grant by way of Free Building Licence at the Site and a valid planning permission is required for further processing for the applicant’s Small House application. Noting that there is no change in planning circumstances since the previous application was approved, sympathetic consideration may be given to the application.

- 12.3 The Site is located within Nam Wai Village and Nam Wai SAI. The Site is currently partly covered with grass and the vicinity of the Site are occupied by other Small Houses (**Plans A-2a and A-2b**). The proposed development is not incompatible with the surrounding rural environment and landscape character of the surrounding areas and no significant changes or disturbances to the existing landscape character and resources are anticipated. CTP/UD&L, PlanD has no objection to the application from landscape planning point of view. Besides, the proposed Small House is not anticipated to result in adverse drainage, sewerage, environmental, geotechnical, and archaeological and heritage impact on the surrounding areas. Concerned departments including CE/MS, DSD, DEP, H(GEO) of CEDD and ES(AM) of AMO, DEVB have no adverse comments or objection to the application.
- 12.4 There are three similar applications (No. A/SK-HH/66, 67 and 68) for Small House developments in the same “GB” zone on the OZP which were all rejected mainly on grounds that the proposed Small House development is not in line with the planning intention of the “GB” zone; not in compliance with TPB PG-No.10; land is still available within the “V” zone of Nam Wai Village; and setting of an undesirable precedent. Unlike this application (only about 20% of the site area falls within the “GB” zone), the three rejected similar applications fall completely on the “GB” zone and had no previous approval for Small House development.
- 12.5 Regarding the public comment concerning the application on the grounds as detailed in paragraph 11 above, government departments’ comments and planning assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s View

- 13.1 Based on the assessments made in paragraph 12 and having taking 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 15.9.2024, 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 condition of approval and advisory clauses are 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 TPB.

Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Member’s reference:

- (a) the proposed development is not in line with the planning intention of the “Green Belt” 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; and
- (b) land is still available within the “Village Type Development” (“V”) zone of Nam Wai 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 infrastructures and services.

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 and advisory clauses, if any, 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 attachments received on 10.6.2020
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous application
Appendix IV	Similar applications
Appendix V	Comments from relevant government departments
Appendix VI	Public Comment
Appendix VII	Advisory Clauses
Drawing A-1	Location Plan submitted by the applicant
Plan A-1	Location Plan
Plan A-2a & A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4a & A-4b	Site Photos