

**APPLICATION FOR AMENDMENT OF PLAN  
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. Y/SK-CWBN/9**

- Applicant** : Lau Kang Por represented by Everbright Surveyors Limited
- Plan** : Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP)  
No. S/SK-CWBN/6
- Application Site** : Lot 148 S.A ss.2 in D.D. 225, Sheung Yeung, Sai Kung, New Territories
- Site Area** : 112.6 m<sup>2</sup>
- Land Status** : Private Lot held under Block Government Lease demised for  
agricultural use
- Zoning** : “Green Belt” (“GB”)
- Proposed  
Amendment** : To rezone the application site from “GB” to “Village Type  
Development” (“V”)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Sheung Yeung, proposes to rezone the application site (the Site) (**Plans Z-1, Z-2a and Z-2b**) from “GB” to “V” to facilitate “New Territories Exempted House” (“NTEH”) development at the Site. According to the applicant, the proposed NTEH consists of 3 storeys (8.23m) with total gross floor area (“GFA”) of 194.97m<sup>2</sup> and built over 64.99m<sup>2</sup>. The uncovered area is proposed for garden use (**Drawing Z-1**).
- 1.2 In support of the application, the applicant has submitted Application Form and attachments received on 5.11.2018 and replacement pages received on 19.11.2018 (**Appendix I**).

**2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 10 of the Application Form at **Appendix I**. They are summarized as follows:

- (a) the application will address the demand of the applicant, who is an indigenous villager of Sheung Yeung Village, for development;
- (b) the Site is a piece of land within the “GB” zone, serving as an amenity buffer and also a multitude of land uses and developments;
- (c) although zoned “GB” for conservation, only a few young common shrubs and vegetation of low landscape value are found within the Site. The area has low potential for rehabilitation as farmland, and no active / fallow farmland is found in

the surrounding areas;

- (d) several villages are scattered throughout the vicinity, intermingling with institutional and residential developments nearby. Therefore, the “GB” zone in this area has never been intended to be fully restrictive against development, and it is believed that the “GB” zone in this region is a transition rather than a non-building zone for landscape and countryside conservation;
- (e) the application for Small House development is a fair and reasonable option for the rural population. There is a precedent approval granted for the development of a Small House in the vicinity within the “GB” zone; and
- (f) the proposed development will not involve extensive clearance of existing natural vegetation, affect existing roads and water gathering grounds, or render any adverse visual impacts. A proper septic tank system for the proposed NTEH will ensure no adverse drainage impacts to the surrounding areas will be rendered.

### **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.

### **4. Background**

The Site was the subject of a planning enforcement case against Unauthorized Development (“UD”) involving filling of land and excavation of land (**Plan Z-2a**). Enforcement Notice (“EN”) and Reinstatement Notice (“RN”) were issued on 2.8.2017 and 24.10.2017 respectively. Subsequent site inspections revealed that the UD had been discontinued and the concerned land had been reinstated. Compliance Notices for the EN and RN were issued on 31.5.2018, 1.6.2018, 4.12.2018 and 6.12.2018.

### **5. Previous Application**

There is no previous application in respect of the Site.

### **6. Similar Application**

- 6.1 There is no similar application for rezoning from “GB” to “V” in the vicinity of the Site.
- 6.2 A s.16 application (No. A/DPA/SK-CWBN/11) for proposed Small House development to the southwest of the Site was rejected by the Rural and New Town Planning Committee (“the Committee”) on 17.7.2004 (**Plans Z-1 and Z-2a**). The s.16 application was rejected mainly on the following grounds:
  - (a) the proposed development is not in line with the planning intention of the “GB” zone. There is no strong justification in the submission for a departure from such planning intention;

- (b) sufficient land has been reserved within the “V” zones in Mang Kung Uk Village and Sheung Yeung Village for Small House developments and there is insufficient information in the submission to demonstrate that land cannot be made available for Small House developments within the “V” zones; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in encroachment of the “GB” zone by developments.

7. **The Site and Its Surrounding Areas** (Plans Z-1 to Z-3 and Photos on Plans Z-4a to Z-4b)

7.1 The Site is:

- (a) located in the midst of the “GB” zone to the south of Sheung Yeung;
- (b) within the Village Environ (“VE”) of Sheung Yeung; and
- (c) generally flat and mainly occupied by grass.

7.2 The surrounding areas have the following characteristics:

- (a) to its north, south and east are vegetated areas within the “GB” zone. There are some temporary structures to the immediate east of the Site;
- (b) to its immediate south-west is an existing NTEH within the “V” zone; and
- (c) to its further north and west is the Sheung Yeung Village.

8. **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.

9. **Comments from Relevant Government Departments**

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

**Land Administration**

9.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no comment on the application;
- (b) the subject lot is held under Block Government Lease (demised for agricultural use);
- (c) the Site is within the “VE” of Sheung Yeung;
- (d) the Indigenous Inhabitant Representative of Sheung Yeung Village has not provided the 10-year forecast for Small House Demand;
- (e) there are 36 outstanding Small House applications in Sheung Yeung Village; and
- (f) there is no Small House application received at the Site. Upon approval by the Board, an indigenous villager (if he is the lot owner) can apply for a Small House on the Lot.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the application;
- (b) such type of 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 at the current “GB” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (c) notwithstanding the above, the application only involves construction of one NTEH – Small House. He considers that the application can be tolerated unless it is rejected on other grounds; and
- (d) the access road leading to the Site is not managed by the Transport Department. The status of the road should be checked with the lands authority. The management and maintenance responsibilities of the same road should be clarified with the relevant lands and maintenance authorities accordingly.

### **Environment**

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

the applicant proposes to rezone the Site from “GB” to “V” on the OZP for a proposed NTEH development (area of 112.6m<sup>2</sup>). The Site is outside the Water Gathering Ground. In view of the small scale of the

proposed development, the application alone is unlikely to cause major pollution.

### **Urban Design and Visual**

- 9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) the application involves the rezoning of the Site from “GB” to “V” to facilitate the erection of NTEH; and
  - (b) the Site is surrounded by vegetated area to the north, east, south and west with a 3-storey residential dwelling to its immediate southwest. Further north, south and west are residential dwellings and structures in Sheung Yeung Village consisting of 1 to 3 storeys village houses. Given that the surroundings are largely low-rise residential dwellings of similar heights, the proposed development is considered not incompatible with the surrounding area from a visual impact point of view.

### **Landscape**

- 9.1.5 Comments of the CTP/UD&L, PlanD:
- (a) no objection to the application;
  - (b) the Site (112.6m<sup>2</sup>) is located at Clear Water Bay near Clear Water Bay Road and Pak To Avenue. It is currently zoned “GB” on the OZP. The Site was not the subject of any previous application; and
  - (c) with reference to the aerial photo taken in Dec 2015 and August 2018, and a site visit dated 4.12.2018, the Site is situated at a lawn with an existing local road connected. The site is abutting an area zoned as “V” to its immediate southwest and other “V” zones are found to its further northwest across a local road. No significant vegetation was identified within the Site and significant adverse landscape impact to the Site and surroundings due to the proposed use is not anticipated.

### **Sewerage**

- 9.1.6 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/Mainland South, DSD):
- the concerned lot is currently not covered by DSD public drainage and sewerage networks, and requirements related to sewage treatment / disposal are subject to the views of EPD.

9.1.7 Comments of DEP:

the applicant is advised to follow the requirements stipulated in EPD's ProPECC PN 5/93 for the design and construction of the sewage treatment system and are duly certified by an Authorized Person, if connection to public sewer is found not feasible.

**Drainage**

9.1.8 Comments of the CE/Mainland South, DSD:

as the applicant did not provide sufficient drainage details, on the condition that adequate stormwater drainage collection and disposal facilities will be provided in connection with the proposed development to deal with the surface run-off of the Site and the same flowing onto the Site without causing any adverse impacts or nuisance to the adjoining areas, there is no objection in-principle to the application.

**Building Matters**

9.1.9 Comments of the Chief Building Surveyor/New Territories East (2) & Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) no comment on the application under the Buildings Ordinance ("BO"); and
- (b) all non-exempted ancillary site formation and / or communal drainage works are subject to compliance with BO, and Authorized Person must be appointed for the aforesaid site formation and communal drainage works.

**Nature Conservation**

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

- (a) the Site is composed of a lawn and cultivate land. Based on the current conditions of the Site, he has no strong view on the proposal from nature conservation perspective; and
- (b) his department has received a complaint regarding land excavation and clearance at the Site in 2017. As the affected area fell within private land, no enforcement action had been taken.

## **Water Supply**

9.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

9.2 The following government departments have no objection to or no comment on the application:

- (a) Project Manager/ New Territories East, Civil Engineering and Development Department;
- (b) Chief Engineer/ New Territories East, Highways Department;
- (c) Director of Fire Services;
- (d) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
- (e) Director of Electrical and Mechanical Services; and
- (f) District Officer/ Sai Kung, Home Affairs Department.

## **10. Public Comments Received During Statutory Publication Period**

10.1 The application was published for public inspection on 23.11.2018. During the statutory public inspection period which ended on 14.12.2018, one comment supporting the application and five comments objecting to the application were received (**Appendix II**).

10.2 The supporting comment was received from an individual of the public. He opines that there is a shortage of land within existing villages, resulting in many indigenous villagers having to wait for many years before being allocated land to erect their own NTEHs. This application can help expedite the progress of Sheung Yeung villagers in applying for NTEH.

10.3 Comments objecting to the application are received from the World Wide Fund for Nature Hong Kong ("WWF"), Kadoorie Farm & Botanic Garden Corporation, the Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual of the public. They object to the application mainly on the following grounds:

- (a) vegetation had been cleared and structures had been built at the Site, hence this is a suspected "destroy first, apply later" case. Approving the application would legitimize the misuse of the "GB" zone;
- (b) all Small Houses in the area rely on the septic tank and soakaway system

- for sewage treatment, and the currently proposed septic tank is very close to a nearby natural stream. There is a concern that the number of Small Houses would exceed the local natural treatment capacity, and deteriorate the water quality of the river;
- (c) the applicant has failed to demonstrate that the proposed development would not cause adverse environmental, sewerage and landscape impacts on the surrounding areas;
  - (d) the proposed development was not in line with the planning intention of the “GB” zone. There is a general presumption against development within the “GB” zone, and there are no strong justification or exceptional circumstances for a departure from this planning intention; and
  - (e) approving the application will set an undesirable precedent for “GB” zones on this OZP, resulting in further degradation of the integrity of these “GB” zones.

## 11. Planning Considerations and Assessments

- 11.1 The application is to rezone the Site from “GB” to “V” to facilitate the proposed development of NTEH by the applicant, who is an indigenous villager of Sheung Yeung Village. The planning intention of the “GB” zone for the Site is primarily to define 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. The Site, with an area of about 112.6m<sup>2</sup>, comprises private lot held under Block Government Lease demised for agricultural use and carries no building status. The applicant fails to provide strong planning justifications in the submission to support the rezoning of the Site from “GB” to “V”.
- 11.2 The Site is located in the midst of the “GB” zone to the south of Sheung Yeung Village. It forms an integral part of the “GB” zone serving as amenity buffer separating developments from the roads. To the north, east and south of the Site are mainly vegetated areas within the “GB” zone. A small piece of land with area of about 127m<sup>2</sup> to the immediate southwest of the Site is zoned “V” on the OZP. It is so designated to reflect the NTEH approved in 21.10.1999 before the gazette of the first Clear Water Bay Peninsula North Development Permission Area (“DPA”) Plan No. DPA/SK-CWBN/1 on 22.3.2002. While no adverse landscape, drainage and sewerage impacts are anticipated to be resulted from the proposed NTEH development at the Site, and the Site is not within a Water Gathering Ground, the proposal would result in piecemeal extension of the “V” zone, affecting the integrity of the “GB” zone.
- 11.3 According to DLO/SK, the total number of Small House applications for Sheung Yeung is 36. The Indigenous Inhabitants Representative of Sheung Yeung Village has not provided the 10-year forecast for Small House development. According to the latest estimate of PlanD, about 1.85ha of land (or equivalent to about 74 Small House Sites) (**Plan Z-2b**) is still available within the “V” zone of Sheung Yeung to meet the 36 outstanding Small House applications. It is considered more appropriate to concentrate the village type development within the “V” zone for an orderly development pattern, efficient use of land and provision of infrastructure and services.



- 11.4 There is no similar s.12A application on the Clear Water Bay Peninsula North OZP. A s.16 application for development of Small House to the southwest of the Site within the “GB” zone was rejected by the Committee on 17.7.2004. Approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving similar applications would result in encroachment of Green Belt area by development and a general degradation of the natural environment.
- 11.5 Regarding public comments objecting to the application on the grounds of not being in line with the planning intention of the “GB” zone, adverse impacts on the surrounding areas, no strong justification or exceptional circumstances, and setting of undesirable precedent for similar applications, the planning assessments in paragraphs 11.1 to 11.4 above are relevant. Regarding the public comment supporting the application, as mentioned in paragraph 11.3, there is sufficient land within the “V” zone to meet the outstanding Small House applications.

## **12. Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) the Site forms an integral part of the “GB” zone serving as amenity buffer separating developments from the roads. The proposal would result in piecemeal extension of the “V” zone, affecting the integrity of the “GB” zone. The applicant fails to provide strong planning justifications in the submission to support the rezoning of the Site from “GB” to “V”;
  - (b) land is still available within the “V” zone of Sheung Yeung Village, which is primarily intended for NTEH / Small House development. It is more appropriate to concentrate the village type development within the “V” zone for an orderly development pattern, efficient use of land and provision of infrastructure and services; and
  - (c) the approval of the application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving similar applications would result in encroachment of Green Belt area by development and a general degradation of the natural environment.
- 12.2 Alternatively, should the Committee decide to agree/partially agree to the application, the Chief Executive in Council would be requested to refer the approved Clear Water Bay Peninsular North OZP No. S/SK-CWBN/6 to the Board for amendment. The amendment to the approved OZP would be submitted to the Committee for approval prior to gazetting under the Ordinance.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for the decision should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form and replacement pages received on 5.11.2018 and 19.11.2018
<b>Appendix II</b>	Public comments
<b>Drawing Z-1</b>	Layout plan submitted by the applicant
<b>Plan Z-1</b>	Location Plan
<b>Plan Z-2a</b>	Site Plan
<b>Plan Z-2b</b>	Site Plan showing the land available for Small House Development
<b>Plan Z-3</b>	Aerial Photo
<b>Plans Z-4a to Z-4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2019**