

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/641

- Applicant** : Mr. LI Ah Kau represented by Mr. LAU Chee Sing
- Site** : Lots 83 S.C ss.1, 83 S.D and 470 S.E in D.D. 21, San Uk Ka Village, Tai Po
- Site Area** : 116.6m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Po Outline Zoning Plan (OZP) No. S/TP/27
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, an indigenous villager of Luk Heung Wang Teng Tau Village of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House (not elsewhere specified)’ in the “GB” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed Small House development are as follows:

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

1.3 The uncovered area of the Site will be used for open space and garden purpose. Layout of the proposed Small House development including septic tank and the proposed site formation works are shown on **Drawings A-1 to A-4**.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) application form and attachments on 2.11.2017 **(Appendix I)**
 - (b) further information received on 21.3.2018 providing a Geotechnical Planning Review Report (GPRR) **(Appendix Ia)**
(accepted but not exempted from publication and recounting requirements)
 - (c) further information received on 3.5.2018 providing response to departmental comments and supplementary information on GPRR **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- 1.5 On 22.12.2017 and 2.3.2018, the Board agreed to the applicant's requests to defer making a decision on the application for two months to allow time for the preparation of GPRR to address the comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD). The latest further information was submitted on 3.5.2018 and the application is scheduled for consideration by the Committee on 18.5.2018.
- 1.6 Part of the Site is the subject of a previous application (No. A/TP/562) submitted by the same applicant for the same use which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 17.10.2014. Compared with the previous application, the Site involves private land only and the site area and disposition of the proposed Small House have been slightly amended, whilst all other development parameters of the proposed Small House under current application remain the same.

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:

- (a) the applicant is an indigenous villager of a recognized village of Tai Po and he is eligible to apply for a Small House grant under the current Small House policy;
- (b) the proposed Small House is located within the village 'environs' ('VE') of San Uk Ka Village and there is a general shortage of land in meeting the demand for Small House development in "V" zone at San Uk Ka Village;
- (c) the proposed development would not cause any visual and environmental impacts on the surrounding areas as the Site is now vacant with no trees or vegetation;
- (d) the proposed development is compatible with the surrounding area mainly occupied by Small House in terms of land use, scale, design and layout;

- (e) there are 33 similar applications (No. A/TP/266, 274, 278, 282, 286, 287, 300, 302, 303, 320, 347, 353, 363, 380, 401, 424, 425, 464 to 477, 525 and 537) in the vicinity of San Uk Ka village approved by the Board. As such, approval of the application would not set a bad precedent in the “GB” zone;
- (f) the uncovered area of the Site will be properly landscaped for the use of open space and garden purpose;
- (g) the applicant will appoint a Competent Professional Personnel to submit site formation, storm-water discharge and sewerage connection proposals;
- (h) a Geotechnical Planning Review Report (GPRR) is submitted to justify the natural terrain in the vicinity of the Site will not affect or be affected by the proposed development. No adverse impacts will be caused due to the proposed minor site formation works; and
- (i) the applicant undertakes to remove all unauthorized site formation works within and in the vicinity of the Site recorded in 2014, prior to the approval of the site formation works by the Buildings Department.

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. 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 was promulgated on 7.9.2007 and 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 below:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. 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 NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application site is 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 areas. 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 vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development must comply with the development controls and restrictions of areas designated as water gathering grounds;
- (h) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area;
- (i) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (j) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

- 6.1 Part of the Site is the subject of a previous application (No. A/TP/562) submitted by the same applicant for the same use which was rejected by the Committee on 17.10.2014 mainly on considerations of being not in line with the planning intention of the "GB" zone and the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding area and geotechnical impact; and not complying with the TPB-PG No.10 in that the proposed development would affect the existing natural landscape of the surrounding environment and the stability of the adjacent slope.
- 6.2 Compared with the previous application, the Site involves private land only and the site area and disposition of the proposed Small House have been slightly amended, whilst all other development parameters of the proposed

Small House under current application remain the same.

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

7. Similar Applications

- 7.1 There are 39 similar applications (No. A/TP/266, 274, 278, 282, 286, 287, 300, 302, 303, 320, 353, 363, 380, 424, 425, 464 to 477, 553 to 556, 561, 566 and 570 to 572) in the vicinity of the Site and within the same “GB” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**).
- 7.2 All of them were approved with conditions by the Committee between 2000 and 2015 mainly on the grounds that the proposed developments were in line with the Interim Criteria in that more than 50% of the footprint of the Small House was located within the ‘VE’/’V’ zone; there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at that time; and/or being the subject of previously approved application. Applications No. A/TP/571 and 572 situated to the immediate northwest of the Site were recently approved in 2015 for the reasons of being situated in close proximity of existing Small Houses and a cluster of approved Small House applications, having no significant impact on the existing landscape resources in the area; and no encroachment onto the wooded slope of the “GB” zone.
- 7.3 Details of the above 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 Area (Plans A-1, A-2a and photos on Plans A-3b and A-4)

- 8.1 The Site is:
- (a) vacant and covered with groundcovers and young trees of common species;
 - (b) located at the bottom of an artificial slope with some trees and groundcovers on the slope surface;
 - (c) situated to the immediate southwest of a cluster of village houses; and
 - (d) accessible by a footpath leading to Wun Yiu Road.
- 8.2 The surrounding areas are predominantly rural in character occupied by cluster of village houses and tree groups. To the immediate south is a vegetated artificial slope upon which a platform and village houses are built. Existing village houses and a number of approved Small House applications can also be found in the close vicinity of the Site.

9. 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.

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 Small House - Application site	- -	100% 100%	- The Site and the Small House footprint fall entirely within the “GB” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the footprint of the proposed Small House fall entirely within ‘VE’ of San Uk Ka. District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?		✓	- Land required to meet Small House demand in San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu: about 8.03 ha (equivalent to 321 Small House sites). The outstanding Small House applications are 47 ¹ while the 10-year Small House demand forecast for the same villages is 274. - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.99 ha (or equivalent to 119 Small House sites).

¹ Among the 47 outstanding Small House applications, there are five Small House applications straddling or outside the “V” zone that has already obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> - There is a general presumption against development within the “GB” zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view but advises that the Site seems to have undergone recent vegetation clearance (Plans A-3a and A-3b).
5.	Compatible with surrounding area/ development?	✓		<ul style="list-style-type: none"> - The proposed Small House is not incompatible with the surrounding areas which are predominantly rural in character mainly occupied by cluster of village houses and tree groups.
6.	Within Water Gathering Ground (WGG)?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.
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"> - The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has general reservation on the application as such type of development should be confined within the “V” zone. However, he considers that the application only involving development of a Small House can be tolerated.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
10.	Drainage and sewerage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application. - An approval condition on submission and implementation of drainage proposal is required. - The Director of Environmental Protection (DEP) has no adverse comment on the application as the proposed Small House development is unlikely to cause major pollution.
11.	Landscape impact?	✓		<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from landscape planning point of view as the proposed development would inevitably involve site formation and/or slope works and the existing topography of the concerned “GB” area would therefore be changed irreversibly. - Since the footprint of the proposed Small House covered most of the Site and there is very limited space for landscaping within the Site, if the application is approved, the standard condition on submission and implementation of landscaping proposal is not recommended.
12.	Geotechnical impact?		✓	<ul style="list-style-type: none"> - Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO, CEDD) has no comment on the application as the applicant has committed to remove the unauthorized site formation works prior to the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				commencement of site formation works in the submitted GPRR.
13.	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 V**.

- (a) District Lands Officer/Tai Po, Lands Department;
- (b) Commissioner for Transport;
- (c) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (d) Chief Engineer/Mainland North, Drainage Services Department;
- (e) Director of Agriculture, Fisheries and Conservation;
- (f) Director of Fire Services;
- (g) Chief Engineer/Construction, Water Supplies Department; and
- (h) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

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 Electrical and Mechanical Services;
- (c) Project Manager/New Territories East, Civil Engineering and Development Department; and
- (d) District Officer(Tai Po), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period (Appendix VI)

On 10.11.2017 and 6.4.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, seven public comments were received from World Wide Fund For Nature Hong Kong, Designing Hong Kong Limited and individuals objecting to the application mainly for the reasons of being not in line with the planning intention of the “GB” zone, not complying with the TPB-PG No. 10, setting of undesirable precedent and causing adverse landscape impacts on the surrounding area and slope stability.

12. Planning Considerations and Assessments

12.1 The Site falls entirely within the “GB” zone (**Plan A-2a**). The proposed 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.

- 12.2 According to DLO/TP, LandsD’s records, the total number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu is 47 while the 10-year Small House demand forecast is 274. Based on the latest estimate by the Planning Department, about 2.99 ha (or equivalent to about 119 Small House sites) of land are available within the “V” zone of the concerned villages. As the footprint of the proposed Small House falls entirely within the ‘VE’ of the concerned villages, DLO/TP, LandsD has no objection to the application.
- 12.3 The Site currently vacant and covered with groundcovers and young trees of common species is located at the southwestern fringe of village proper of San Uk Ka and sandwiched between the cluster of village houses to the north and vegetated artificial slope to the south. Approved Small House applications can be found in the close vicinity and most of them had been granted Building Licences, and some of them are completed or under construction. The proposed development is not incompatible with the surrounding areas which are predominantly rural in character with cluster of village houses and tree groups. While DAFC has no strong view on the application, CTP/UD&L of PlanD has reservation on the application from the landscape planning point of view as the proposed development would inevitably involve site formation and/or slope works and the existing topography of the concerned “GB” area would therefore be changed irreversibly.
- 12.4 Part of the Site is the subject of a previous application (No. A/TP/562) rejected by the Committee on 17.10.2014 on the grounds, amongst other things, that the proposed development would cause adverse geotechnical impact. For the subject application, the applicant has submitted a GPRR to address H(GEO) of CEDD’s concerns and the applicant undertakes to remove all unauthorized site formation works prior to the commencement of the site formation works for the proposed Small House. H(GEO) of CEDD therefore has no comment on the application and advises that the applicant shall submit the works proposal together with the prescribed plans for site formation works to the Building Authority for approval. Besides, C for T has general reservation on the application as such development should be confined within “V” zone as far as possible but considers that the application involving development of a Small House only can be tolerated. Other relevant Government departments including DEP, CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD and D of FS have no objection to or no adverse comment on the application. As the proposed development is not expected to have significant adverse environmental, traffic, geotechnical, drainage and sewerage impacts, the application generally meets the TPB-PG No. 10.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the ‘VE’ of San Uk Ka. While land available within the “V” zone for Small House development (about 2.99 ha or

equivalent to about 119 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 47 outstanding 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 and special consideration would be given to sites with previous approvals. There is no previous approval for the Site. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, the Site is bounded by the existing cluster of village houses and approved applications for Small House developments in the north and west. On 13.3.2015, the Committee approved two applications (No. A/TP/571 and 572) located to its immediate west. The implementation of those approved Small House applications are forming a new village cluster in the locality. Coupled with the vegetated slope to the immediate south, the Site now becomes a residual lot and sympathetic consideration might be given to the application.

- 12.6 There are 39 similar applications (No. A/TP/266, 274, 278, 282, 286, 287, 300, 302, 303, 320, 353, 363, 380, 424, 425, 464 to 477, 553 to 556, 561, 566 and 570 to 572) within the “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria in 2000 (**Plans A-1 and A-2a**). All of them were approved with conditions by the Committee between 2000 and 2015 mainly on the grounds that the proposed developments were in line with the Interim Criteria in that more than 50% of the footprint of the Small House was located within the ‘VE’/“V” zone; there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at that time; the proposed developments were not expected to have significant adverse impacts on the surrounding areas, and/or being the subject of previously approved application. The Site is adjacent to some approved applications. There has not been any material change in planning circumstances for the area since the approval of these applications.
- 12.7 Regarding the public comments objecting to the application mainly on the grounds of being not in line with the planning intention of the “GB” zone, not complying with the TPB-PG No. 10, setting of undesirable precedent and causing adverse landscape impacts on the surrounding area and slope stability, Government departments’ comments and the planning assessment above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments 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 **18.5.2022**, 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 conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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; and
- (b) 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 VII**.

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 is not in line with the planning intention of "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 is no strong planning justification in the submission to justify a departure from the planning intention;
- (b) the proposed development does not comply with the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape, and the applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas;
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas; and
- (d) land is still available within the "V" zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu 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 attachment received on 2.11.2017
Appendix Ia	Further information received on 21.3.2018
Appendix Ib	Further information received on 3.5.2018
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	Previous application
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant Government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawings A-2 to A-4	Site formation plans submitted by the applicant
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
Plans A-3a and A-3b	Aerial photos
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2018**