

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/662

- Applicant** : Mr. CHANG Kam Lun represented by Mr. LAU Chee Sing
- Site** : Lots 83 S.C RP and 470 S.D in D.D.21, San Uk Ka Village, Tai Po, N.T.
- Site Area** : About 120.7m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
- 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 Sha Lo Tung Cheung Uk Village of Tai Po Heung as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village¹, 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 (other than rebuilding of NTEH or replacement of existing domestic building by NTEH only)’ 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 Layout of the proposed Small House development with a septic tank is shown on **Drawing A-1**.

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

¹ As advised by DLO/TP, LandsD, the applicant’s eligibility of Small House grant has yet to be ascertained.

- (a) application form and attachments on 22.1.2019 **(Appendix I)**
- (b) further information received on 8.3.2019 providing a Geotechnical Planning Review Report (GPRR) **(Appendix Ia)**
(accepted but not exempted from publication and recounting requirements)
- (c) further information received on 9.4.2019 providing response to departmental comments and supplementary information on GPRR **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)

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 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 34 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, 537 and 641) 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; and
- (f) the uncovered area of the Site will be properly landscaped for the use of open space or garden purpose.

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 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 below:

- (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 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 NTEH 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 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;
- (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 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 41 similar applications (No. A/TP/266, 274, 278, 282, 286, 287, 300, 302, 303, 320, 353, 363, 380, 424, 425, 464 to 477, 525, 553 to 556, 561, 566, 570 to 572 and 641) 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**), of which 40 were approved and one was rejected.
- 7.2 A total of 39 applications were approved with conditions by the Committee between 2000 and March 2015 before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015. These applications were approved 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 proposed Small House was located within the ‘VE’/’V’ zone; there was a general shortage of land in the concerned “V” zone to meet the demand for Small House development at that time; and/or the application site was the subject of previously approved application. Applications No. A/TP/571 and 572 situated to the northwest of the Site were also approved for the reasons of being 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 For the two remaining applications (No. A/TP/562 and 641), they cover the same site which is situated to the immediate west of the current application site. Application No. A/TP/562 was rejected by the Committee in 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. Subsequently, the same applicant submitted another application (No. A/TP/641) with the site area and disposition of the proposed Small House slightly amended. It was also supplemented with a GPRR to address the concerns on slope stability. This application was approved in 2018 mainly on the grounds that the proposed development was generally in line with the TPB-PG No.10 in that it would not cause adverse geotechnical impact; and in close proximity of existing Small Houses and a cluster of approved Small House applications.
- 7.4 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

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

- 8.1 The Site is:
- (a) 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 Small House footprint 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		✓	- Land required to meet Small House demand in San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu: about 7.95 ha (equivalent to 318 Small House

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	demand?			sites). The outstanding Small House applications are 44 ² while the 10-year Small House demand forecast for the same villages is 274.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- 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).
4.	Compatible with the planning intention of “GB” zone?		✓	- 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.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character mainly occupied by cluster of village houses and tree groups.
6.	Within Water Gathering Ground (WGG)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.

² Among the 44 outstanding Small House applications, 23 of them fall within the “V” zone and 21 straddle or outside the “V” zone. For those 21 applications straddling or being outside the “V” zone, 6 of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) in general has reservation on the application but considers that the application only involving development of a Small House can be tolerated unless it is rejected on other grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the application.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has 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 covers most of the Site and there is no adequate space for quality landscape to benefit the public realm, landscape condition is not recommended should the application be approved.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Engineering and Development Department (H(GEO), CEDD) has no in-principle objection to the application from geotechnical aspect.
14.	Local objections conveyed by DO?		✓	

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

- (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) Director of Electrical and Mechanical Services;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) 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) Project Manager (North), Civil Engineering and Development Department; and
- (c) District Officer(Tai Po), Home Affairs Department.

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

On 29.1.2019 and 15.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, two public comments were received from World Wide Fund For Nature Hong Kong and an individual 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 and environmental impacts on the surrounding area.

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 44 while the 10-year Small House demand forecast is 274. Based on the latest estimate by the Planning Department, about 2.99 ha of land (equivalent to about 119 Small House sites) 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 In response to H(GEO) of CEDD’s concern that the Site encroaches on an existing cut slope, the applicant has submitted a GPRR at **Appendix Ia**. H(GEO) of CEDD has no in-principle objection to 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 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 44 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 August 2015. 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. In this regard, it is considered more appropriate to concentrate the proposed Small House development within the “V” zone for a more 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 in the north and south and approved applications for Small House developments in the west including application No. A/TP/641, which is located to the immediate west of the Site and was approved by the Committee in 2018. The implementation of those approved Small House applications are forming a new village cluster in the locality. Hence, sympathetic consideration might be given to the current application.

- 12.6 As shown on **Plan A-2a**, there are 30 similar applications for Small House development in close vicinity of the Site within the same “GB” zone. Except for Application No. A/TP/562, which was rejected on 17.10.2014 mainly on technical grounds, the other 29 applications were approved. The last application No. A/TP/641 was approved on 18.5.2018 after the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015 mainly on the grounds that the proposed development was generally in line with the TPB-PG No.10 in that it would not cause adverse geotechnical impact; and was in close proximity of existing Small Houses and a cluster of approved Small House applications. The circumstances of the current application is similar to that approved application.
- 12.7 Regarding the public comments objecting to the application mainly on the grounds as detailed in paragraph 11 above, 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 **3.5.2023**, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the provision of septic 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 VI**.

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 22.1.2019
Appendix Ia	Further information received on 8.3.2019
Appendix Ib	Further information received on 9.4.2019
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant Government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Site plan 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
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2019**