

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/MOS/130**

<b><u>Applicant</u></b>	: Mr. WONG Wai Lam
<b><u>Site</u></b>	: Government Land (GL) adjoining Lot 1053 in D.D. 167, Nai Chung Village, Sai Kung North, New Territories
<b><u>Site Area</u></b>	: About 55.3m <sup>2</sup>
<b><u>Land Status</u></b>	: GL
<b><u>Plan</u></b>	: Approved Ma On Shan Outline Zoning Plan (OZP) No. S/MOS/28
<b><u>Zoning</u></b>	: “Green Belt” (“GB”) <sup>1</sup>
<b><u>Application</u></b>	: Proposed House (Private Garden Ancillary to House)

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed private garden ancillary to an existing house at the application site (the Site) which falls within an area zoned “GB” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH permitted under the covering Notes)’ is a Column 2 use<sup>2</sup> within the “GB” zone requiring planning permission from the Town Planning Board (the Board). The Site is a raised platform which is currently hard-paved and vacant with no vegetation.
- 1.2 The Site is accessible via a local track leading to Sai Sha Road (**Plan A-2**). According to the applicant, the proposed private garden adjoins a house owned by the applicant, namely House No. 10B in Nai Chung Village (**Plan A-2**). The proposed private garden consists of a covered area of about 13.3m<sup>2</sup> by a shading canopy protruding from House No. 10B and two private car parking spaces. The indicative layout plan submitted by the applicant is shown in **Drawing A-1**.

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<sup>1</sup> A minor portion of the Site (i.e. about 0.2m<sup>2</sup>, about 0.37% of the Site) falls within an area zoned “V” on the OZP, which can be regarded as minor boundary adjustment in accordance with the covering Notes of the OZP, and not included in the planning assessment.

<sup>2</sup> The subject private garden is considered as part of the House.

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

- (a) Application Form received on 6.2.2025 **(Appendix I)**
- (b) Further Information (FI) received on 20.3.2025 **(Appendix Ia)**  
*\*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 the Application Form and FI at **Appendices I and Ia**, as summarised below:

- (a) the applicant has been residing in House No. 10B in Nai Chung Village since 1986. The Site which adjoins his house has been formed before the gazettal of the first Ma On Shan OZP in 1991; and
- (b) the applicant would use the entire building of House No. 10B for domestic use and wishes to utilise the space at the Site immediately adjoining his house for private garden with car parking spaces.

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

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

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) are relevant to this application. Relevant extract of the Guidelines is attached at **Appendix II**.

## **5. Background**

- 5.1 A very small portion of the Site was part of an area covered by Short Term Tenancy (STT) No. 372 (with an area of about 300m<sup>2</sup>) for sitting out area of a café and bicycle storage abutting Houses No. 10A (Blocks A and B) granted by the Lands Department (LandsD) in 1982. The STT was subsequently terminated in 1989.
- 5.2 A piece of GL (with an area of about 325m<sup>2</sup>) zoned “GB” which includes the entire Site and adjoins Houses No. 10B and 10C was formed and developed into an outdoor seating accommodation (OSA) of a licenced restaurant previously known as Sai Sha Café covered by STT No. 865 which was granted by LandsD (**Plan A-2**) on 1.3.1989. The restaurant had continued its operation since the commencement of the STT until the termination of the STT on 1.12.2024.
- 5.3 Owing to the restaurant operation under the abovementioned STTs, the Site was formed and hard-paved prior to the gazettal of the first Ma On Shan OZP in 1991.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Applications**

There is no similar application within the same “GB” zone in the past five years.

## 8. **The Site and its Surrounding Areas** (Plans A-1 to A-4c)

8.1 The Site is:

- (a) a raised platform which is currently hard-paved and vacant with no vegetation;
- (b) located to the south of Sai Sha Road within the ‘Village Environ’ (‘VE’) of Nai Chung Village and within the “V” zone which covers Nai Chung Village and Sai O Village; and
- (c) accessible via a local track leading to Sai Sha Road.

8.2 The surrounding areas have the following characteristics:

- (a) the immediate surrounding of the Site is paved and predominately occupied by village houses in Nai Chung Village and Sai O Village;
- (b) to the west of the Site adjoining Houses No. 10E and 10F is an OSA covered by STT No. 1037 falling within an area partly zoned “V” and partly zoned “GB” which serves as a part of the restaurant operation on the ground floor of these two houses since 2001. To the east of the Site are two private gardens adjoining Houses No. 10A (Block A and Block B) under STTs No. 1707<sup>3</sup> since 2011 and No. 1230 since 2001 respectively;
- (c) to the further east and south of the Site outside Nai Chung Village is an extensive woodland partly falling within a permitted burial ground; and
- (d) to the further north of the Site across Sai Sha Road are public car park in “Government, Institution or Community” (“G/IC”) zone and village houses in Nai Chung Village (northern portion) in “V” zone.

## 9. **Planning Intention**

The planning intention of the “GB” zoning in the area 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.

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<sup>3</sup> The first STT for private garden adjoining House No. 10A (Block A) commenced in 1989 and was terminated in 1999, which was immediately followed by the re-issue of the STT under No. 1087 from 1999 to 2011 and then under No. 1707 commenced in 2011 up to the present for the same private garden at the same location.

## **10. Comments from Relevant Government Departments**

10.1 The following government departments have been consulted and their views on the application are summarised below:

### **Land Administration**

10.1.1 Comments of the District Lands Officer/Tai Po, LandsD (DLO/TP, LandsD):

- (a) he has no objection to / no adverse comment on the application;
- (b) the Site is on unleased and unallocated GL adjoining Lot No. 1053 in D.D. 167. Any occupation of GL without the Government's prior approval is not allowed; and
- (c) his advisory comments are at **Appendix III**.

### **Landscape**

10.1.2 Comments of the Chief Town Planner / Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) she has no adverse comment on the application from landscape planning perspective;
- (b) based on the aerial photo in 2023, the Site is located in an area of miscellaneous urban fringe landscape characters comprising small houses, temporary structures, clusters of tree groups, road and woodland. The proposed development is considered not incompatible with its surrounding environment; and
- (c) the Site is hard-paved with no significant landscape resource observed. Significant adverse impact on existing landscape resources arising from the proposed development is not anticipated.

### **Nature Conservation**

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

he has no comment on the application in view that the Site is developed and surrounded by other developments.

### **Traffic**

10.1.4 Comments of the Commissioner for Transport (C for T):

- (a) she has no objection in principle to the application from traffic engineering point of view; and
- (b) her advisory comments are at **Appendix III**.

### **Environment**

10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) he has no adverse comment on the application; and
- (b) his advisory comments are at **Appendix III**.

### **Drainage**

10.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no in-principle objection to the application; and
- (b) his advisory comments are at **Appendix III**.

### **Building Matters**

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

- (a) he has no objection to the application; and
- (b) his advisory comments are at **Appendix III**.

### **Fire Safety**

10.1.8 Comments of the Director of Fire Services (D of FS):

he has no specific comment on the captioned application provided that the application will not affect the provision of nearby houses or any planned emergency vehicular access.

10.2 The following departments have no objection to/comments on the application:

- (a) Chief Engineer/Construction, WSD (CE/C, WSD);
- (b) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD);
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (d) Project Manager (North), CEDD (PM(N), CEDD)

## **11. Public Comment Received During Statutory Publication Period**

On 14.2.2025, the application was published for public inspection. During the statutory public inspection period, one public comment was received (**Appendix IV**). An individual objects to the application on the grounds that the proposed development on GL is not acceptable and the approval of the application would encourage similar applications.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for a private garden ancillary to an existing house which falls within an area zoned “GB” on the OZP (**Plan A-1**). The proposed private garden, forming part of the house development, with an area of about 55.3m<sup>2</sup> comprises an area of about 13.3m<sup>2</sup> covered by a shading canopy and two private car parking spaces (**Drawing A-1**). Although the proposed development is not in line with the planning intention of the “GB” zone where there is a general presumption against development, sympathetic consideration could be given to the application taking into account the planning considerations below.
- 12.2 The Site adjoins the existing House No. 10B which is located at the northern fringe of Nai Chung Village “V” zone to the south of Sai Sha Road and within the ‘VE’ of Nai Chung Village (**Plan A-2**). The proposed private garden of an acceptable scale is not incompatible with the surrounding development context which is predominantly urbanised in character and in close proximity to village clusters of Nai Chung Village and Sai O Village (**Plans A-1 to A-4c**) scattered with eating place, ancillary uses such as parking of vehicles, and private gardens. CTP/UD&L, PlanD advises that the Site is located in an area of miscellaneous urban fringe landscape characters comprising small houses, temporary structures, clusters of tree groups, road and woodland and considers the proposed development is not incompatible with its surrounding environment.
- 12.3 The Site was formed and developed before the first gazettal of Ma On Shan OZP in 1991. It was also previously used as the OSA of the restaurant covered by STT No. 865 since 1.3.1989 and subsequently terminated on 1.12.2024. The Site is currently vacant and hard-paved without significant landscape resources and surrounded by other developments. There is no vegetation clearance involved for the proposed development. CTP/UD&L, PlanD considers that significant adverse impact on existing landscape resources arising from the proposed development is not anticipated. DAFC has no comment on the application from nature conservation perspective.
- 12.4 Given the nature, small scale, unique background and site context of the proposed development, no adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are anticipated. Relevant government departments consulted, including C for T, DEP, D of FS, CE/MN, DSD and CE/C, WSD have no objection to or no adverse comments on the application. As such, the proposed private garden forming part of the house is generally not in conflict with TPB PG-No. 10 in that it is considered compatible with the surrounding areas; it does not involve extensive clearance of existing natural vegetation and would not cause adverse landscape impact on the “GB” zone. Notwithstanding, to avoid jeopardising the long-term planning intention of the “GB” zone for defining the limits of urban and sub-urban development areas and to allow the Committee to monitor the land use in the area, it is recommended to grant a temporary approval of five years.
- 12.5 Regarding the public comment on the application as detailed in paragraph 11, the government departments’ comments and planning assessments 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 comment mentioned in paragraph 11 above, 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 on a temporary basis for a period of five years until 28.3.2030. The following advisory clauses are suggested for Members' reference:

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

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 no strong planning justification in the submission for a departure from such planning intention.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when 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**

<b>Appendix I</b>	Application Form received on 6.2.2025
<b>Appendix Ia</b>	FI received on 20.3.2025
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 10
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4c</b>	Site Photos