

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/SK-CWBN/63

Applicant : Lau King Fung

Site : Lot 158 S.C RP in D.D. 238, Pan Long Wan, Sai Kung, New Territories

Site Area : 91.5m² (about)

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6

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 Pan Long Wan Village, seeks planning permission for development of one NTEH (Small House) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “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 The Site is currently vacant and covered by weedy vegetation. Major development parameters of the proposed Small House are as follows:
- | | |
|---------------------|---------------------|
| Site Area | 91.5m ² |
| No. of Small House: | 1 |
| Covered Area | 60.9m ² |
| Total GFA: | 182.7m ² |
| No. of Storey | 3 |
| Building Height | 8.23m |
- 1.3 The location plan and layout plan submitted by the applicant are shown at **Drawings A-1 to A-2**.
- 1.4 In support of the application, the applicant has submitted the Application Form dated 22.2.2021 and attachments at **Appendix I**.
- 1.5 On 16.4.2021 and 9.7.2021, the Rural and New Town Planning Committee (the Committee) agreed to defer its consideration on the application as requested by the

applicant to allow time to consult relevant department and address the departmental comments. Subsequently, the applicant liaised with the Transport Department and addressed the comments. The application is submitted to this meeting for the Committee's consideration.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Section 8 of Application Form (**Appendix I**). They can be summarized as follows:

- (a) the proposed Small House is a suitable development which is compatible with the village environment;
- (b) the footprint of the proposed Small House is entirely within the 'Village Environ' ('VE') of Pan Long Wan Village;
- (c) the proposed development meets small house demand and upgrades the current abandoned land; and
- (d) the proposed development will have no adverse traffic and sewerage impacts on the surrounding area.

3. **Compliance with the "Owner's Consent/Notification" Requirements**

The applicant is the sole "current land owner" of the Site. 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**

Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for 'Application for Development within "Green Belt" Zone under section 16 of the Town Planning Ordinance' are relevant to the application (**Appendix III**). The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in the "GB" zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;
- (b) application for new development in "GB" zone will only be considered in exceptional circumstances and must be justified with very strong planning ground;
- (c) application for NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the Site 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 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, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) 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 sources of pollution; and
- (h) 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 (Plan A-1)**

- 7.1 There have been 5 similar applications (No. A/SK-CWBN/16, 18, 25, 56 and 57) for Small House developments in the “GB” zone on the Clear Water Bay Peninsula North OZP (**Plan A-1**) since the Interim Criteria was revised on 7.9.2007. All the applications were rejected by the Committee or the Board on review between 2011 and 2019 on the grounds that: (a) not in line with the planning intention of the “GB” zone; (b) not in line with the TPB-PG No. 10 and the Interim Criteria; and (c) setting of an undesirable precedent. Applications No. A/SK-CWBN/56 and 57, which were rejected by the Committee in 2019, were also subject to the ground that land is still available within “Village Type Development” (“V”) zone.
- 7.2 Details of the similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) within the ‘VE’ of Pan Long Wan;
- (b) not connected directly to any footpath or track/road; and

- (c) currently covered by weedy vegetation and surrounded by wooded areas.

8.2 The surrounding areas have the following characteristics:

- (a) to its south is a natural streamcourse;
- (b) to its east and southeast is a low-lying native shrubland and woodland forming part of a wider “GB” zone adjoining the “Conservation Area” (“CA”) zone;
- (c) to its west and north are vegetated areas within the “GB” zone; and
- (d) to its further north across the vegetated area is an area zoned “V” and the main village cluster of Pan Long Wan is located to the further southwest within the “V” zone.

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 of the Interim Criteria set out in **Appendix III**. The assessment of the application 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 NTEH/Small House -Application site		100% 100%	Within “GB” zone.
2.	Within ‘VE’? -Footprint of the NTEH/Small House -Application site	100% 100%		<ul style="list-style-type: none"> The Site and the Small House footprint fall entirely within the ‘VE’ of Pan Long Wan. District Land Officer/Sai Kung (DLO/SK) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	<u>Land Required</u> <ul style="list-style-type: none"> Land required to meet Small House demand: about 4.43ha (equivalent to 177 Small House sites). The outstanding Small House applications are 62¹ while the 10-year Small House demand forecast is 115. <u>Land Available</u> <ul style="list-style-type: none"> Land available to meet Small House demand is about 2.15 ha (equivalent to 86 Small House sites) (Plan A-2b).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of GB” zone?		✓	<p>Not in line with the planning intention of the “GB” zone which is to define the limits of urban development areas by natural features. There is a general presumption against development within the “GB” zone.</p> <p>Director of Agriculture, Fisheries and Conservation (DAFC) has reservation on the application. The Site is close to wooded areas. The applicant should provide further information regarding the potential impact of the proposed Small House development. It is noted from the Application Form (Appendix I) that there is an existing village road for access. The applicant should indicate the existing access in the map and provide onsite photos to demonstrate that the Site is served by existing road access.</p>
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are rural in character mixed with village houses and vegetation.
6.	Within Water Gathering Ground?		✓	
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 in-principle objection to the application. The applicant is reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by Lands Department. Detailed fire safety requirements will be formulated upon receipt of

¹ Among the 62 outstanding Small House applications, 53 of them fall within the “V” zone and 9 of them are straddling or outside the “V” zone. For those 9 applications straddling or being outside the “V” zone, none of them have obtained valid planning approvals from the Board. Besides, 31 applications fall fully and partly onto government land, in which 15 applications have no indication of the proposed locations.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				formal application referred by Lands Department.
9.	Traffic Impact?	✓		<p>Commissioner for Transport (C for T) advises that the proposed Small House 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, the proposed Small House development outside “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.</p> <p>Notwithstanding the above, the application only involves development of one Small House, and can be tolerated on traffic grounds.</p>
10.	Drainage Impact?	✓		<p>Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) advises that as the Site is located at an open area with a nearby streamcourse, the relevant drainage proposal with relevant substantiations demonstrating that adequate stormwater drainage collection and disposal facilities would be provided to deal with the surface runoff of the Site or the same flowing on to the Site from the adjacent areas should be provided.</p> <p>Should the application be approved, the applicant is required to submit and implement a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.</p>
11.	Sewerage Impact?	✓		<p>Director of Environmental Protection (DEP) is unable to support the application. Septic tank and soakaway system is proposed at the southern portion of the Site for sewage treatment. The proposed location of the system is only about 10m away from the nearest stream, which does not meet the minimum clearance requirement stipulated in Appendix D of the Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject Comments by the Environmental Protection Department”. Therefore, adverse water quality impact to the concerned stream is anticipated.</p>
12.	Geotechnical Impact?		✓	<p>Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no adverse comment on the application.</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Landscaping Impact?	✓		<p>Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from landscape planning point of view.</p> <p>According to the aerial photo of 2020 and the site photo (Plan A-4b), the Site is currently a vacant scrubland near the “CA” zone with dense woodland to the east and a natural stream to the south. No existing tree is observed within the Site. Village settlements are observed to the north and southwest of the Site. The Site is located in an area of rural landscape character predominated by abandoned farmlands, woodlands and small houses. In view that the Site is located within an undisturbed “GB” zone and surrounded by lush vegetation, the proposed development is considered not entirely compatible with the landscape character of the surrounding area.</p> <p>Moreover, there is no direct access road connecting to the Site and information on the proposed access road is not provided in the planning application, the potential adverse landscape impact to the existing landscape resources arising from the construction of an access road for the proposed development cannot be reasonably ascertained. Given that there is no similar application previously approved within the same “GB” zone, there is concern that approval of the planning application may encourage other similar applications to the vegetated “GB” zone. The cumulative impact of which would result in general degradation of the landscape quality of the surrounding environment of the “GB” zone.</p>
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 paragraph 10.1 above. Detailed comments are at **Appendix V**.

- (a) DLO/SK, LandsD;
- (b) DAFC;
- (c) D of FS;
- (d) C for T;
- (e) DEP;
- (f) H(GEO), CEDD;
- (g) CE/MS, DSD; and
- (h) CTP/UD&L, PlanD.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Chief Highways Engineer/New Territories East, Highways Department;
- (d) Chief Buildings Surveyor/New Territories East(2) & Rail, Buildings Department; and
- (e) Project Manager (East), Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

On 5.3.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 26.3.2021, 19 public comments were received (**Appendix VI**). The seven supporting comments received are from Hang Hau Rural Committee, Village Representative of Tai Hang Hau Village, and individuals on the ground that there is insufficient available land for village house development in Pan Long Wan. Ten commenters, including Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and eight individuals object to the application and two commenters who are individuals raise concerns on the application based on similar grounds which are summarized as follow:

- (a) not in line with planning intention of the “GB” zone, and there is no strong justification for a departure from the planning intention;
- (b) adverse drainage, sewerage, environmental, ecological, traffic and landscape impacts of the proposed development on the surrounding area;
- (c) inadequate space for car park, no road access and emergency vehicle access is provided;
- (d) the proposed development and septic tank soakaway system is very close to a nearby stream, and the water quality of the stream may be affected;
- (e) land is still available within “V” zone of Pan Long Wan, Ng Fai Tin and Sheung Yeung villages for Small House development; and
- (f) approval of the application will set an undesirable precedent for similar applications within the “GB” zone.

12. Planning Considerations and Assessments

12.1 The application is for proposed development of one Small House at the Site falling entirely within an area zoned “GB” on the approved Clear Water Bay Peninsula North 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. The proposed Small House development is not in line with the planning intention of the “GB” zone and there is no strong justification for a departure from the planning intention.

- 12.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD, the outstanding Small House applications for Pan Long Wan is 62 while the 10-year Small House demand forecast is 115 as advised by the Indigenous Inhabitants Representative of Pan Long Wan Village. Based on the latest estimate by the Planning Department, about 2.15 ha (equivalent to about 86 Small House sites) are available within the concerned “V” zone. 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 62 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 infrastructures and services.
- 12.3 The Site is currently covered by weedy vegetation and the surrounding area is rural in character with wooded areas, forming part of a wider “GB” zone adjoining the “CA” zone to its southeast. The proposed Small House will impose adverse impact on the existing landscape resources and natural streamcourse. As there is no direct access road connecting to the Site and no information on the proposed access road is provided in the application, the potential landscape impact arising from the construction of an access road for the proposed development cannot be ascertained. The impact of the proposed development will likely extend beyond the site boundary, resulting in adverse impact on the existing landscape resources and the native shrubland and woodland in the vicinity. In this regard, DAFC and CTP/UD&L have reservation on the application. The proposed development will involve extensive clearance of natural vegetation and the applicant fails to demonstrate that the proposed development will not have adverse landscape impact on the surrounding area, it therefore does not comply with the TPB-PG No. 10 and the Interim Criteria.
- 12.4 DEP does not support the application as the proposed location of the septic tank and soakaway system which is only about 10m away from the nearest stream does not meet the minimum clearance requirement. Adverse water quality impact to the nearby stream is anticipated. CE/MS, DSD also advises that as the Site is located at an open area with a nearby streamcourse, a drainage proposal with relevant substantiations demonstrating that adequate stormwater drainage collection and disposal facilities to deal with the surface runoff of the Site or the same flowing on to the Site from the adjacent areas should be provided. Besides, C for T advises that although additional traffic generated by the proposed Small House development is not expected to be significant, the proposed Small House development outside “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. Notwithstanding, the application only involves development of one Small House, and can be tolerated on traffic perspective. Other relevant government departments have no objection to or no adverse comment on the application on technical aspects.
- 12.5 All similar applications within the “GB” zone on the subject OZP were rejected by the Committee or the Board on review, approval of the subject application would set an undesirable precedent for other similar applications within the “GB” zone. The cumulative impacts of approving such application would result in encroachment of the “GB” zone by developments and a general degradation of the natural environment and landscape character of the area.

- 12.6 Public comments supporting the application are noted. Regarding public comments objecting to/raising concerns on the application, the planning assessment assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) 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 this zone. The applicant fails to provide strong planning justifications for a departure from the planning intention;
 - (b) land is still available within the “V” zone of Pan Long Wan, which is primarily intended for NTEH/Small House development. 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;
 - (c) the proposed development is not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House development in the New Territories and the Town Planning Board Guidelines No.10 for ‘Application for Development within “Green Belt” Zone’ in that the proposed development would cause adverse landscape impact on the surrounding areas and would pollute the natural streamcourse; and
 - (d) approval of the application will set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving similar applications will result in the encroachment on the “GB” zone by development and a general degradation of the natural environment and landscape character of the area.
- 13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 10.9.2025, 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 a 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**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form dated 22.2.2021
Appendix II	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	The Town Planning Board Guidelines No.10 (TPB-PG No. 10) for 'Application for Development within "Green Belt" zone under section 16 of the Town Planning Ordinance'
Appendix IV	Similar planning applications for Small House
Appendix V	Comments from relevant government departments
Appendix VI	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Location plan submitted by the applicant
Drawing A-2	Layout plan submitted by the applicant
Plan A-1	Location Plan
Plans A-2a & A-2b	Site Plans
Plan A-3	Aerial Photo
Plans A-4a & A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2021**