

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

APPLICATION NO. A/SK-CWBN/73

<u>Applicant</u>	:	Mr. YU Chun Ki represented by Windsor Construction Limited
<u>Site</u>	:	Lot 1073 (Part) in D.D. 243 and Adjoining Government Land (GL), Mang Kung Uk, Hang Hau, Sai Kung, New Territories
<u>Site Area</u>	:	65.03m ² (including 31.2m ² of GL (about 48%))
<u>Lease</u>	:	Old Schedule Agricultural lot held under Block Government Lease
<u>Plan</u>	:	Approved Clear Water Bay Peninsula North Outline Zoning Plan (OZP) No. S/SK-CWBN/6
<u>Zonings</u>	:	“Government, Institution or Community (4)” (“G/IC(4)”) (about 97%) <i>[restricted to a maximum building height of 7.62m]</i> “Village Type Development” (“V”) (about 3%) ¹ <i>[restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) – Small House) and Minor Relaxation of Building Height (BH) Restriction

1. The Proposal

- 1.1 The applicant, an indigenous villager of Mang Kung Uk², seeks planning permission for a proposed house (NTEH – Small House) and minor relaxation of the BH restriction from 7.62m to 8.23m of the application site (the Site) which falls mostly within an area zoned “G/IC(4)” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “G/IC(4)” 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). The “G/IC(4)” zone is subject to a maximum BH of 7.62m, and minor relaxation of the BH restriction may be considered by the Board on application based on the individual merits of a development or redevelopment proposal.

¹ About 1.9m² (i.e. 3%) of the application site falls within the “V” zone, which can be considered as minor boundary adjustment permitted under the covering Notes of the OZP and is not included in the planning assessment.

² As advised by the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD), the applicant has been certified as an indigenous villager of Mang Kung Uk by the Indigenous Inhabitant Representative (IIR) of Mang Kung Uk.

- 1.2 The Site is currently vacant and covered by trees and shrubs. The development parameters of the proposed Small House are as follows:

Build Over Area :	65.03m ²
Gross Floor Area :	195.09m ²
No. of Storeys :	3
Building Height :	8.23m

- 1.3 The location plan and tree survey plan submitted by the applicant are shown at **Drawings A-1** and **A-2**.

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

- (a) Application form and supplementary information (**Appendix I**) received on 24.2.2023 and 27.2.2023
- (b) Further information (FI) received on 21.6.2023 (**Appendix Ia**)
[accepted but not exempted from publication and recounting requirements]

- 1.5 On 21.4.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix I** and **Ia**. They can be summarised as follows:

- (a) the applicant is an indigenous villager who is eligible to apply for construction of a Small House for once in his lifetime;
- (b) according to the tree survey report, there is no endangered tree species or Old and Valuable Tree identified within the Site and its surrounding area. The applicant is willing to oblige to approval condition(s), if any, regarding tree treatment and mitigation measures; and
- (c) the applicant has addressed the concerns of relevant government departments on the proposed Small House development from landscape, traffic and geotechnical aspects.

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. For the GL portion, the "owner's consent/notification" requirements are not applicable.

4. **Background**

The subject “G/IC(4)” zone (546m²) for which the Site falls in is originally earmarked for a Sewage Pumping Station (SPS). According to the advice of the Environmental Protection Department, the public sewer system in Mang Kung Uk was completed in 2013 and there was no need for a SPS at the subject “G/IC(4)” zone. Currently, the subject “G/IC(4)” zone is wholly reserved for the Food and Environmental Hygiene Department (FEHD) for reprovisioning of an existing village-type refuse collection point (RCP) (located at about 60m to the north of the subject “G/IC(4)” zone). As advised by FEHD, there is a need for continuous reservation of the “G/IC(4)” zone for the provision of a new aluminium RCP to cater for increasing demand of refuse collection service in Mang Kung Uk (**Plans A-2a and A-4b**). The proposed Small House development will take up about 12% of the “G/IC(4)” zone.

5. **Assessment Criteria**

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

6. **Town Planning Board Guidelines**

Town Planning Board Guidelines No. 16 (TPB PG-No.16) for ‘Application for Development/Redevelopment within "Government, Institution or Community" Zone for Uses other than Government, Institution or Community Uses under Section 16 of the Town Planning Ordinance’ are relevant to the application. The relevant assessment criteria are summarised in **Appendix III**.

7. **Previous Application**

There is no previous application at the Site.

8. **Similar Application**

There is no similar application for Small House development within the “G/IC” zone on the OZP.

9. **The Site and its Surrounding Areas** (**Plans A-1 and A-2a** and photos on **Plans A-3, A-4a and A-4b**)

9.1 The Site:

- (a) is vacant and covered by trees and shrubs;

- (b) is located within the village ‘environs’ (‘VE’) of Mang Kung Uk; and
- (c) is not accessible by any footpath or road.

9.2 The surrounding areas have the following characteristics:

- (a) to its immediate north, east and south are low-lying vacant land partly covered with trees and shrubs in the same “G/IC(4)” and “V” zones;
- (b) to its west is Mang Kung Uk Road which is on a higher level and is separated from the Site by a strip of vegetated slope;
- (c) to its further northeast, east, south and west are the existing village clusters of Mang Kung Uk; and
- (d) the existing village-type RCP is located at about 60m to the north of the subject “G/IC(4)” zone.

10. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community (GIC) facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

11. Comments from Relevant Government Departments

11.1 The application has been assessed against the assessment criteria of the Interim Criteria set out in **Appendix II**. 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 - The Site	3% 3%	97% 97%	The footprint and the Site of the proposed Small House fall mostly within the “G/IC(4)” zone.
2.	Within ‘VE’? - Footprint of the NTEH/Small House - The Site	100% 100%		DLO/SK, LandsD advises that the Small House falls entirely within the ‘VE’ of Mang Kung Uk (Plan A-2a).

	<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)?		✓	<p><u>Land Required</u></p> <ul style="list-style-type: none"> Land required to meet the Small House demand in Mang Kung Uk: about 8.63ha (equivalent to 345 Small House sites). The outstanding Small House applications are 95³ while the 10-year Small House demand forecast is 250⁴. <p><u>Land Available</u></p> <ul style="list-style-type: none"> Land available to meet Small House demand within the “V” zone of Mang Kung Uk is about 3.73 ha (equivalent to 149 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “G/IC” zone?	✓		Director of Food and Environmental Hygiene (DFEH) objects to the application as the subject “G/IC(4)” zone is wholly reserved for the reprovisioning of the existing village-type RCP to cater for increasing demand of refuse collection service in Mang Kung Uk.
5.	Compatible with surrounding area/ development?	✓		The proposed Small House is not incompatible with the surrounding area predominated by trees, shrubs and village houses.
6.	Within Water Gathering Ground?		✓	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?		✓	The subject “G/IC(4)” zone is reserved for a RCP though it is yet to be included as a public works item.
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.
9.	Traffic Impact?	✓		Commissioner for Transport (C for T)

³ Among the 95 outstanding Small House applications, 93 fall within the “V” zone and 2 are straddling/outside the “V” zone. For those 2 applications straddling/outside the “V” zone, none of them has obtained valid planning approval from the Board.

⁴ The IIR of Mang Kung Uk has not provided the figure for 10-year Small House demand forecast since his last update on 31.12.2008. The latest record provided by the IIR for the 10-year Small House demand for the period from 1.1.2009 to 31.12.2018 was 250. The figure has not been verified by LandsD.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>advises that the 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, such type of development outside the “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 which only involves development of one Small House can be tolerated on traffic grounds.</p>
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no adverse comment on the application and advises that an approval condition on the submission and implementation of a drainage proposal is required for the application.
11.	Sewerage Impact?		✓	Director of Environmental Protection (DEP) has no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the Small House to the existing public sewer at his own costs and reserve adequate land for the sewer connection work.
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> <p>Chief Highways Engineer/New Territories East, Highways Department (CHE/NTE, HyD) has no comment on the application from highways maintenance point of view provided that the proposed Small House would not encroach on the existing slope toe U-channel to the west of the Site (slope feature No. 12NW-C/FR218).</p>
13.	Landscaping		✓	According to Chief Town Planner/Urban

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Impact?			Planning and Design, Planning Department (CTP/UD&L, PlanD), as the Site is situated in an area of miscellaneous urban fringe landscape character predominated by tree groups and village houses, the proposed development is considered not incompatible with the landscape setting of the surrounding area.
14.	Local objection conveyed by DO?		✓	District Officer (Sai Kung), Home Affairs Department (DO(SK), HAD) has no comment on the application.

11.2 Comments from the following government departments have been incorporated in paragraph 11.1 above. Detailed comments are at **Appendix IV**.

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

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

- (a) Director of Agriculture Fisheries and Conservation;
- (b) Chief Buildings Surveyor/New Territories East(2) & Rail, Buildings Department;
- (c) Director of Electrical and Mechanical Services;
- (d) Project Manager (East), CEDD;
- (e) DO(SK), HAD; and
- (f) Chief Engineer (Works), HAD.

12. Public Comments Received During Statutory Publication Periods

Two public comments were received during the statutory publication periods (**Appendix V**). One public comment submitted by the Chairman of the Hang Hau Rural Committee supports the application on the ground that the proposed development would address the shortage of land for Small House development in Mang Kung Uk. The other public comment submitted by an individual objects to the application on the grounds which are summarised as follows:

- (a) although the Site is surrounded by a “V” zone, the area adjacent to the Site has not been developed and is covered by trees;
- (b) land is still available within the “V” zone of Mang Kung Uk for Small House development which should be contained within the existing village cluster; and
- (c) provision of access and septic tank for the proposed Small House would inevitably intrude upon additional GL.

13. Planning Considerations and Assessments

- 13.1 The application is for a proposed Small House with minor relaxation of BH restriction from 7.62m to 8.23m at the Site mostly zoned “G/IC(4)” on the OZP. The proposed development is not in line with the planning intention of the “G/IC” zone, which is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. The Site takes up about 12% of the subject “G/IC(4)” zone which is currently wholly reserved for a RCP to be provided by FEHD. There is no strong justification in the submission for a departure from the planning intention of the “G/IC” zone.
- 13.3 The proposed Small House development does not comply with TPB PG-No. 16 in that it would adversely affect the provision of the planned RCP in Mang Kung Uk on a long-term basis. DFEH objects to the application and advises that with the further development in Mang Kung Uk village, it is anticipated that the existing refuse collection facilities will no longer be adequate to meet the needs. There is a need for continuous reservation of the “G/IC(4)” zone for reprovisioning of the existing village-type RCP (located at about 60m to the north) by a new aluminium RCP to cater for increasing demand of refuse collection service in Mang Kung Uk.
- 13.4 Regarding the Interim Criteria (**Appendix II**), DLO/SK, LandsD advised that the number of outstanding Small House applications for Mang Kung Uk is 95 while the 10-year Small House demand forecast is 250. Based on PlanD’s latest estimate, about 3.73 ha of land (equivalent to about 149 Small House sites) is available within the subject “V” zone of Mang Kung Uk. While the amount of land available within the “V” zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board has formally adopted a more cautious approach in approving applications for Small House development since 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. 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.
- 13.5 The Site is situated in an area of miscellaneous urban fringe landscape character predominated by tree groups and village houses. CTP/UD&L, PlanD advises that the proposed development is not incompatible with the landscape setting of the surrounding area. C for T considers that Small House development should

be confined within the “V” zone as far as possible but given that the proposed development involves construction of one Small House, the application can be tolerated on traffic grounds. Other relevant government departments, including DEP, CE/C, WSD, CE/MS, DSD, H(GEO), CEDD and D of FS, have no objection to or adverse comment on the application.

- 13.6 The public comment supporting the application is noted. Regarding the public comment objecting to the application, the departmental comments in paragraph 11 above and planning assessments in paragraphs 13.1 to 13.5 above are relevant.

14. Planning Department’s Views

- 14.1 Based on the assessments made in paragraph 13 and having taken into account the public comments mentioned in paragraph 12 above, 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 “Government, Institution or Community” zone which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. There is no strong planning justification in the submission for a departure from the planning intention;
- (b) the proposed Small House development does not comply with the Town Planning Board Guidelines for ‘Application for Development/Redevelopment within “Government, Institution or Community” zone for Uses other than Government, Institution or Community Uses’ in that the proposed development would adversely affect the provision of the planned refuse collection point in Mang Kung Uk on a long-term basis; and
- (c) land is still available within the “Village Type Development” (“V”) zone of Mang Kung Uk which is primarily intended for NTEH/Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for an orderly development pattern, efficient use of land and provision of infrastructures and services.

- 14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 11.8.2027, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

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 VI**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 15.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 15.3 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.

16. Attachments

Appendix I	Application form and supplementary information received on 24.2.2023 and 27.2.2023
Appendix Ia	FI received on 21.6.2023
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Relevant extract of TPB-PG No. 16
Appendix IV	Detailed comments from relevant government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Location plan submitted by the applicant
Drawing A-2	Tree survey plan submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available within the “V” zone of Mang Kung Uk for Small House development
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**