

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

**APPLICATION NO. A/SK-TMT/78**

- Applicant** : Mr. 李智里 represented by Mr. HUI Kwan Yee
- Site** : Lots 19 S.A and 220 S.A in D.D. 252, Tso Wo Hang, Sai Kung, New Territories
- Site Area** : About 98m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No. S/SK-TMT/4
- 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 Tso Wo Hang, seeks planning permission to build a NTEH (Small House) at the application site (the Site), which falls within an area zoned “GB” on the approved Tai Mong Tsai and Tsam Chuk Wan OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is currently vacant and largely formed (**Plan A-4**). Details of the proposed Small House development are as follows:
- |                  |   |                      |
|------------------|---|----------------------|
| Total Floor Area | : | 195.09m <sup>2</sup> |
| No. of Storeys   | : | 3                    |
| Building Height  | : | 8.23m                |
| Roofed Over Area | : | 65.03m <sup>2</sup>  |
- 1.3 Layout of the proposed Small House and location of septic tank submitted by the applicant are at **Drawing A-1**.
- 1.4 The Site is the subject of a previously rejected application (No. A/SK-TMT/15) submitted by the same applicant. Details of the previous application are set out in paragraph 7 below. Compared with the previous application, the development

parameters of the proposed Small House at the Site are the same.

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

- (a) Application form received on 19.7.2023 (Appendix I)
- (b) Further information (FI) received on 18.10.2023\* (Appendix Ia)  
*\*accepted and exempted from publication and recounting requirements*

1.6 On 8.9.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application for two months as requested by the applicant.

## 2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 8 of the application form at **Appendix I**. According to the applicant, the proposed Small House development will be built on a piece of vacant farmland, no alternative land option for the proposed development, and there are similar developments in the vicinity.

## 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. **Background**

- 4.1 The Site is not subject to any active planning enforcement action. Should there be sufficient evidence that there is unauthorized development under the Town Planning Ordinance, planning enforcement actions would be undertaken as appropriate.
- 4.2 Nevertheless, the Site together with the adjoining lots and government land was the subject of a planning enforcement case (No. E/SK-TMT/0025) against unauthorized developments involving excavation and filling of land in 2020 (**Plan A-2a**). Enforcement Notice (EN) and Reinstatement Notice (RN) were issued on 10.1.2020 and 21.1.2020 respectively. Compliance Notices to EN and RN were issued on 20.10.2020 and 21.10.2020 respectively.

## 5. **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. The latest set of the Interim Criteria promulgated on 7.9.2007, is at **Appendix II**.

## **6. Town Planning Board Guidelines**

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’ (the TPB Guidelines) are relevant to this application. The relevant assessment criteria are summarised in **Appendix III**.

## **7. Previous Application**

The Site is the subject of a previous application (No. A/SK-TMT/15) for a proposed NTEH submitted by the same applicant rejected by the Committee on 14.9.2007 mainly on the grounds that the proposed development was not in line with the planning intention of the “GB” zone, not complying with the Interim Criteria in that sufficient land was available in the “Village Type Development” (“V”) zone in the area, the proposed development would have adverse impact on the existing landscape character of the area, and setting of undesirable precedent. As compared with the previous application, the Site, which was previously covered by trees and vegetation, is currently vacant and largely formed. Nevertheless, the development parameters of the proposed Small House under application remain unchanged. Details of the previous application are at **Appendix IV**.

## **8. Similar Applications**

8.1 There is no similar application for Small House development within the same “GB” zone in the past 5 years. However, there are three similar applications (No. A/SK-TMT/58, 59 and 60) for Small House developments within the same “GB” zone of Tso Wo Hang rejected in 2017, which are relevant in the consideration of the subject application. The three applications were rejected by the Committee mainly on the grounds that the proposed developments were not in line with the planning intention of “GB” zone and there were no exceptional circumstances or strong planning grounds for a departure from the planning intension, not in line with the TPB-PG No. 10 in that adverse impacts on landscape and slope safety were anticipated, land was still available within the “V” zone of Tso Wo Hang for Small House development, and approval of the applications would set undesirable precedent for other similar applications within the “GB” zone.

8.2 Details of the similar applications are summarised at **Appendix V** and their locations are shown on **Plan A-2a**.

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

9.1 The Site is currently vacant and largely formed without vegetation. It is located entirely within the village ‘environs’ (‘VE’) of Tso Wo Hang, and accessible via a soil track leading to the village proper of Tso Wo Hang.

9.2 The surrounding areas are predominantly dense woodland within the “GB” zone and the adjoining “Conservation Area” (“CA”) zone. The “CA” zone is to

preserve natural features and the mature woodland and provides a buffer for Sai Kung West Country Park in the north. The eastern boundary of the “V” zone of Tso Wo Hang is about 15m from the Site.

## 10. 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.

## 11. Comments from Relevant Government Departments

11.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?  - Footprint of the proposed Small House  - The Site	-  -	100%  100%	The footprint and the Site of the proposed Small House fall entirely within the “GB” zone.
2.	Within ‘VE’?  - Footprint of the proposed Small House  - The Site	100%  100%	-  -	The footprint and the Site of the proposed Small House fall entirely within the ‘VE’ of Tso Wo Hang.  The District Lands Officer/Sai Kung (DLO/SK), LandsD has no objection to the application.
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> Land required to meet Small House demand in Tso Wo Hang: about 1.5 ha (equivalent to 60 Small House sites). The number of outstanding Small House applications is 11 <sup>1</sup> while the 10-year Small House demand forecast is 49.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> Land available to meet Small House demand within the “V” zone of Tso Wo Hang: about 1.8 ha (equivalent to 72 Small House sites) ( <b>Plan</b>

<sup>1</sup> Among the 11 outstanding Small House applications, 10 fall within the “V” zone and one falls outside/ straddling the “V” zone. For the one application falling outside/ straddling the “V” zone, no valid planning approval has been obtained from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				<b>A-2b).</b>
4.	Compatible with the planning intention of “GB” zone?		✓	<p>- There is a general presumption against development within the “GB” zone.</p> <p>- Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application as the Site is vacant and could be accessed by an existing road.</p>
5.	Compatible with surrounding areas/ developments?		✓	The Site is surrounded by dense vegetation and located closely to the adjacent “CA” zone which serves as a buffer for Sai Kung West Country Park in the north.
6.	Within WGG?		✓	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 service installations and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no in-principle objection to the application.
9.	Traffic Impact?	✓		The 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, 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. Notwithstanding that, she considers that the application can be tolerated on traffic grounds as it only involves the development of one Small House.
10.	Drainage Impact?		✓	The Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) has no in-principle objection to the application from drainage maintenance viewpoint.

	<u><b>Criteria</b></u>	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Remarks</b></u>
11.	Sewerage Impact?		✓	The Director of Environmental Protection (DEP) and CE/MS, DSD have no adverse comment on the application.
12.	Landscaping Impact?	✓		The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) considers that the proposed development is incompatible with the landscape character of the surrounding natural landscape in “GB” zone, and there is no application for the same use approved in the vicinity of the same “GB” zone. She has reservation on the application from landscape planning perspective.
13.	Geotechnical Impact?		✓	The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no adverse comment on the application.
14.	Local objection conveyed by DO?		✓	The 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 the above paragraph. Detailed comments are at **Appendix VI**.

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

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

- (a) Chief Engineer (Works), HAD; and
- (b) Chief Highway Engineer/New Territories East, Highways Department.

## **12. Public Comments Received During Statutory Publication Period**

On 28.7.2023, the application was published for public inspection. During the statutory publication period, two public comments from Kadoorie Farm & Botanic Garden Corporation and an individual were received opposing to the application mainly on the grounds that the Site is the subject of a rejected application for Small House, the proposed development is not in line with the planning intention of “GB” zone, there is still land available for Small House development within the “V” zone and approving the application would set an undesirable precedent (**Appendix VII**).

## **13. Planning Considerations and Assessments**

- 13.1 The application is for a proposed Small House development at the Site which falls within an area zoned “GB” on the OZP. The proposed Small House 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. While DAFC has no comment on the application as the Site is vacant and could be accessed by an existing road, the Site is predominantly surrounded by dense woodland within the “GB” zone and the adjoining “CA” zone which serves as a buffer for Sai Kung West Country Park in the north (**Plan A-3**). However, there is no strong justification in the applicant’s submission for a departure from the planning intention of the “GB” zone.
- 13.2 The Site is currently vacant and largely formed without vegetation. Noting that the Site is currently vacant, impact on landscape resources have been taken place, CTP/UD&L of PlanD considers that the proposed development is incompatible with the landscape character of the surrounding natural landscape in “GB” zone and has reservation on the application from landscape planning perspective. According to the TPB PG-No. 10 (**Appendix III**), new development in the “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The proposed development is considered not in line with TPB PG-No. 10 in that there are no exceptional circumstances to justify the proposed development, which may affect the existing natural landscape of the surrounding area.
- 13.3 Regarding the Interim Criteria (**Appendix II**), the Site and the footprint of the proposed Small House fall entirely within the ‘VE’ of Tso Wo Hang. According to DLO/SK of LandsD, the number of outstanding Small House applications for Tso Wo Hang is 11 while the 10-year Small House demand forecast is 49. Based on the latest estimate by PlanD, about 1.8 ha of land (equivalent to 72 Small House sites) is available within the “V” zone of Tso Wo Hang for Small House development. In this regard, land available within the “V” zone is sufficient to meet the outstanding Small House applications as well as 10-year Small House demand forecast. As there is no general shortage of land in meeting the demand of Small House development in the concerned “V” zone, it is considered more appropriate to concentrate Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 13.4 C for T considers that while the application can be tolerated on traffic grounds, the proposed Small House should be confined within the “V” zone as far as possible as such type of development outside the “V” zone, if permitted, will set an undesirable precedent case and the resulting cumulative adverse traffic impact could be substantial. Other relevant government departments including CE/MS of DSD, DEP, CE/C of WSD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application on drainage, sewerage, environmental, water supplies, geotechnical and fire safety aspects.
- 13.5 The Site is the subject of a previous application (No. A/SK-TMT/15) for the same use submitted by the same applicant rejected by the Committee in 2007. There are also three similar applications (No. A/SK-TMT/58, 59 and 60) within the same “GB” zone rejected in 2017. The circumstances of the current application are similar to these rejected applications, and rejection of the current application is consistent with the Committee’s previous decisions.
- 13.6 Regarding the public comments objecting to the application, the government departments’ comments in paragraph 11 and planning assessments in paragraphs 13.1 to 13.5 above are relevant.

#### **14. Planning Department’s View**

- 14.1 Based on the assessments made in paragraph 13 and having taken into account the public comments mentioned in paragraph 12, 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 “Green Belt” (“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 for a departure from such planning intention;
  - (b) the proposed development is not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that there are no exceptional circumstances to justify the proposed development, which may affect the existing natural landscape of the surrounding area; and
  - (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories in that there is no general shortage of land in meeting the demand for Small House development in the “V” zone of Tso Wo Hang. 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.
- 14.2 Alternatively, should the Committee decide to approve the application, it is



suggested that the permission shall be valid until 8.12.2027, 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 recommended advisory clauses are attached at **Appendix VIII**.

## **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 decided 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 the validity of the permission should expire.

## **16. Attachments**

<b>Appendix I</b>	Application Form with attachments received on 19.7.2023
<b>Appendix Ia</b>	FI received on 18.10.2023
<b>Appendix II</b>	Relevant Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories
<b>Appendix III</b>	Relevant Extract of Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
<b>Appendix IV</b>	Previous Application
<b>Appendix V</b>	Similar Applications
<b>Appendix VI</b>	Comments from Relevant Government Departments
<b>Appendix VII</b>	Public Comments
<b>Appendix VIII</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a and A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
DECEMBER 2023**