

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-SKW/116

<u>Applicant</u>	:	Mr. Wu Yick Nam Victor represented by Land Supreme Surveyors Limited
<u>Site</u>	:	Lot 280 RP in D.D. 385, Wu Uk Tsuen, Tai Lam Chung, Tuen Mun, New Territories
<u>Site Area</u>	:	About 87.6m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Draft So Kwun Wat Outline Zoning Plan (OZP) No. S/TM-SKW/14 (currently in force) Approved So Kwun Wat OZP No. S/TM-SKW/13 (at the time of submission)
<u>Zonings</u>	:	“Village Type Development” (“V”) (about 75.7m ² or 86.4%) “Green Belt” (“GB”) (about 11.9m ² or 13.6%) (zonings of the Site remain unchanged)
<u>Application</u>	:	Proposed House (New Territories Exempted House (NTEH) - Small House)

1. The Proposal

1.1 The applicant, who claims to be an indigenous villager (IV) of Tai Lam Chung¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only)’ is always permitted within the “V” zone while ‘House (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 Details of the proposed Small House development are as follows:

Total floor area	:	195.09m ²
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

¹ District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) advises that the applicant’s IV status has yet to be verified.

- 1.3 The applicant indicates that the footprint of the proposed Small House will be confined to the “V” zone portion and the “GB” portion will be for garden use. Layout and section 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:
- (a) Application Form received on 8.7.2022 (Appendix I)
 - (b) Further Information (FI) received on 26.10.2022 (Appendix Ia)
(accepted but not exempted from publication and recounting requirements)
 - (c) FI received on 7.11.2022 *(accepted and exempted from publication and recounting requirements)* (Appendix Ib)
- 1.5 The Rural and New Town Planning Committee (the Committee) of the Board agreed on 26.8.2022 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 **Appendices I, Ia and Ib**. They can be summarised as follows:

- (a) The density and scale of the proposed Small House development are compatible with the surrounding developments. The orientation of the proposed Small House follows the pattern of existing houses and other Small Houses being processed in the area.
- (b) Only 11.9m² or 13.6% of the Site falls within the “GB” zone. The footprint of the proposed Small House falls entirely within the “V” zone portion of the Site while the “GB” portion will be used for garden purpose.
- (c) The Site is suitable for NTEH development as it is accessible by an existing public local track serving Wu Uk Tsuen from Luen Tai Street, and minimum traffic impact is anticipated from the proposed development.
- (d) The applicant is an IV of Tai Lam Chung. He has tried his best but still could not acquire a lot which is wholly zoned “V” for Small House development as the demand for Small House sites is great in Tai Lam Chung.
- (e) There are existing public utilities such as water, electricity and telephone services readily available for the proposed Small House development. Septic tank will be provided on the Site. The submitted Geotechnical Planning Review Report (GPRR) also confirmed that the stability of the existing slope and trees to the southeast of the Site would not be affected by the proposed development.

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 Consideration of Application for NTEH/Small House in 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**

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

6. **Previous Application**

There is no previous application concerning the Site.

7. **Similar Applications**

7.1 There is no similar application for Small House development within or straddling the same “GB” zone since the first promulgation of the Interim Criteria on 24.11.2000. However, there are two similar approved applications (No. A/TM-SKW/41 & 95) for Small House developments with application sites straddling on other “V” and “GB” zones in So Kwun Wat Tsuen on the same OZP (**Plan A-1**).

7.2 Application No. A/TM-SKW/41 was approved with conditions by the Committee on 30.1.2004 on considerations that the application was generally in line with the Interim Criteria in that there was a general shortage of land in the “V” zone at the time of consideration and the site fell entirely within the village ‘environ’ (‘VE’). Application No. A/TM-SKW/95 was approved with conditions by the Committee on 30.9.2016 as sympathetic consideration was given in view that the site was located in close proximity to the existing village cluster with only less than 2m² of the footprint of the proposed Small House falling outside the “V” zone.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-3 and photos on **Plan A-4**)

8.1 The Site is:

- (a) currently vacant, and partly hard paved and partly grown with weeds at its southeastern corner;
- (b) entirely located within the ‘VE’ of Tai Lam Chung; and

(c) accessible via a local track leading to Luen Tai Street to the north.

8.2 The surrounding areas are predominantly rural in character with existing village houses including the Wu Uk Tsuen village proper to the immediate northeast. To the southeast and northwest of the Site are a stretch of natural slope covered by vegetation and Tai Lam Chung Nullah respectively. Some GIC facilities such as Hong Kong Customs College and Hong Kong Police Vehicle Examination Centre are located across the nullah.

9. **Planning Intentions**

9.1 The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small House by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9.2 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 proposed Small House - Application site	100% 86.4%	 13.6%	The remaining portion of the Site falls within the “GB” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - Application site	100% 100%		The DLO/TM, LandsD advises that the Site falls entirely within the ‘VE’ of Tai Lam Chung.

	<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> - Land required to meet Small House demand in Tai Lam Chung: about 5.85 ha (or equivalent to 234 Small House sites). The outstanding Small House applications are 34 while the 10-year Small House demand forecast is 200.
	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” zones of the village concerned: about 4.27 ha (or equivalent to 170 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within “GB” zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application from nature conservation perspective as majority of the Site falls within “V” zone and is already disturbed.
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are predominantly rural in character with village houses, agricultural land and natural slope with dense vegetation.
6.	Within Water Gathering Grounds?		✓	
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 objection to the application.
9.	Traffic impact?	✓		The Commissioner for Transport (C for T) considers the application can be

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				tolerated on traffic grounds as the application involves only one Small House.
10.	Drainage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no comment on the application from public drainage viewpoint.
11.	Sewerage impact?		✓	The Director of Environmental Protection (DEP) has no adverse comment on the application as the scale of the proposed development is small which is unlikely to cause major pollution and the applicant is committed to install septic tank and soakaway system to treat waste water generated on-site.
12.	Landscape impact?		✓	The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no comment on the application from landscape planning perspective as the proposed building footprint does not encroach into the existing slope area and trees, and the “GB” zone would not be affected. Significant adverse impact on the landscape resources arising from the application is not anticipated.
13.	Geotechnical impact?		✓	The Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no comment on the GPRR submitted by the applicant.
14.	Local objection received from 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) DLO/TM, LandsD;
- (b) C for T;
- (c) CE/MN, DSD;
- (d) DEP;
- (e) D of FS;
- (f) DAFC;
- (g) CTP/UD&L, PlanD; and
- (h) H(GEO), CEDD.

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

- (a) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office, Development Bureau;
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department;
- (d) Commissioner of Police;
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) District Office/Tuen Mun, Home Affairs Department ; and
- (g) Chief Highway Engineer/New Territories West, Highways Department.

11. Public Comments Received During Statutory Publication Periods

The application and FI were published for public inspection on 15.7.2022 and 1.11.2022 respectively. During the statutory public inspection periods, a total of 42 public comments objecting to the application were received from individuals. Amongst the 42 public comments, 38 of them (samples at **Appendices V-1 and V-2**) have not provided reason for objection. The other four public comments from two individuals (**Appendices V-3 and V-4**) raised objection mainly on the grounds that village houses in the area are already very congested; the additional Small House development will cause nuisance and adverse traffic, environmental and fire safety impacts on the area; and the Site, which is government land, should be used for provision of community facilities or open space for the enjoyment of local residents.

12. Planning Considerations and Assessments

12.1 The application is for proposed Small House development at the Site (87.6m²) mainly zoned “V” (about 86.4% or 75.7m²) with a portion zoned “GB” (about 13.6% or 11.9m²) on the OZP. The proposed Small House development is in line with the planning intention of the “V” zone. 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, and there is a general presumption against development. Whilst the proposed development is not entirely in line with such planning intention, the small portion within the “GB” zone would only be

used as garden and DAFC has no comment on the current application from nature conservation perspective.

- 12.2 The Site, currently vacant, partly hard-paved and partly grown with weeds, is located to the southwest of the village proper of Wu Uk Tsuen, Tai Lam Chung. The proposed Small House development is not incompatible with the surrounding rural and village setting, and CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact is not anticipated given the building footprint of the proposed development does not encroach upon the “GB” zone and the existing trees on the sloping area.
- 12.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/TM of LandsD’s record, the total number of outstanding Small House applications for Tai Lam Chung is 34, while the 10-year Small House demand forecast for the same village is 200. Based on the latest estimate by PlanD, about 4.27 ha of land (equivalent to about 170 Small House sites) are available within the “V” zones of Tai Lam Chung for Small House development. While land available within the “V” zones is insufficient to meet the future Small house demand, land is available within the “V” zones to meet the outstanding 34 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 infrastructure and services. Nevertheless, the majority of the Site (more than 86%) falls within the “V” zone, the Site wholly falls within the ‘VE’, and the footprint of the proposed Small House falls entirely within the “V” zone. The portion within “GB” zone is relatively small and would only be used for garden purpose according to the applicant. In view of the above and its close proximity to the existing village cluster, sympathetic consideration may be given to the application.
- 12.4 Other concerned government departments, including DEP, CE/MN of DSD, CE/C of WSD, C for T, H(GEO) of CEDD and D of FS have no objection to or no comment on the application. As the proposed development is not expected to have significant adverse environmental, landscape, traffic, geotechnical, drainage and sewerage impacts, the proposed development is considered generally in line with TPB PG-No. 10.
- 12.5 There are two similar approved applications (No. A/TM-SKW/41 and A/TM-SKW/95) for proposed Small House developments in So Kwun Wat Tsuen on the same OZP of which their sites also straddle on “GB” and “V” zones (details of the two applications in paragraph 7 above). As such, approving the subject application is in line with the previous decisions of the Committee.
- 12.6 There are 42 public comments received objecting to the application on grounds as summarised in paragraph 11 above. Comments of government departments and the planning assessments in paragraphs 10.1 and 12.1 to 12.4 above are relevant. Regarding the public comment requesting to use the Site for provision of community facilities or open space, it should be noted that the Site is under private ownership instead of government land.

13. **Planning Department's Views**

- 13.1 Based on the assessments 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 9.12.2026, 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 advisory clauses at **Appendix VI** are also suggested for Members' reference:
- 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 the "Green Belt" 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 the planning intention; and
 - (b) land is still available within the "Village Type Development" ("V") zones of Tai Lam Chung which are primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zones for more orderly development pattern, efficient use of land and provision of infrastructures 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 condition and advisory clauses, if any, 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 received on 8.7.2022
Appendix Ia	FI received on 26.10.2022
Appendix Ib	FI received on 7.11.2022
Appendix II	Extract of the Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories
Appendix III	Extract of TPB PG-No. 10

Appendix IV	Detailed comments from relevant government departments
Appendices V-1 to V-4	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1	Layout and section 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” zones
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**