

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

**APPLICATION NO. A/TP/683**

**Applicant** : Mr. CHEUNG Cheuk Hin represented by Mr. YIP Fook Wah, Raymond

**Site** : Lot 432 S.G RP in D.D. 5, San Wai Tsai, Tai Po

**Site Area** : About 98.2m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30

**Zonings** : “Green Belt” (“GB”)

**Application** : Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

- 1.1 The applicant, an indigenous villager of Tai Om Village<sup>1</sup> as confirmed by the Indigenous Inhabitant Representative (IIR), 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 (other than rebuilding of NTEH or replacement of existing domestic building by NTEH only)’ in the “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 Details of the proposed Small House development are as follows:
- |                  |   |                      |
|------------------|---|----------------------|
| Total floor area | : | 180.06m <sup>2</sup> |
| No. of storeys   | : | 3                    |
| Building height  | : | 8.23m                |
| Roofed over area | : | 60.02m <sup>2</sup>  |
- 1.3 The applicant has proposed connection of the Site with existing public sewerage system. The layout of the proposed Small House and its drainage and sewerage proposal are shown on **Drawings A-1** and **A-2** respectively.
- 1.4 In support of the application, the applicant has submitted the application form with attachments received on 22.8.2022 (**Appendix I**)

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<sup>1</sup> District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

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

The justifications put forth by the applicant in support of the application stated in Part 8 of the application form at **Appendix I** are summarized as follows:

- (a) the applicant is an indigenous villager of San Wai Tsai and the Site is entirely within the village ‘environs’ (‘VE’) of San Wai Tsai Village;
- (b) the Site was assigned by the applicant’s grandfather by way of Deed of Gift to the applicant to exercise his right as an indigenous villager to apply for a free Building Licence for construction of a NTEH under Small House policy;
- (c) in view that the Site is an “in-fill” site within the village cluster of San Wai Tsai, the proposed development is compatible in terms of land use, scale, design and layout with the surrounding;
- (d) the “Village Type Development” (“V”) zone of San Wai Tsai is relatively small in terms of area to meet the demand of Small Houses from the indigenous villagers. Agricultural use in the adjoining “GB” zone had been phased out;
- (e) the proposed development does not frustrate the planning intention of the “GB” zone;
- (f) the proposed development does not fall within any government project limits and would not cause any adverse traffic, environmental, drainage, geotechnical impacts on the surrounding areas; and
- (g) the Site would be the last plot of private land within the ‘VE’ and the “GB” as an “in-fill” site. It would not set an undesirable precedent for similar applications in the “GB” zone.

## **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. 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 No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant to this application. The relevant assessment criteria are at **Appendix III**.

**6. Previous Application**

There is no previous application for the Site.

**7. Similar Applications**

7.1 There are 11 similar applications (No. A/TP/311, 312, 313, 342, 354, 382, 383, 384, 386, 407 and 484) for Small House development within the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria. All these applications were approved with conditions by the Committee between 2003 and 2011 mainly on the considerations that the applications generally complied with the Interim Criteria in that the proposed Small Houses fell within the ‘VE’ of the concerned village, and there was a shortage of land in the “V” zone in meeting the Small House demand at the time of consideration; and the proposed Small House developments were considered compatible with the surrounding areas, which were predominantly rural in character with clusters of village houses and temporary structures.

7.2 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-2a**.

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

8.1 The Site is:

- (a) hard paved and currently being used for parking of vehicles;
- (b) surrounded by existing village houses to its immediate west, south and east and located entirely within the ‘VE’ and village proper of San Wai Tsai Village; and
- (c) accessible by vehicles via a village road leading to San Wai Tsai Road.

8.2 The surrounding areas are predominantly rural in character comprising village houses. Existing village houses, mainly covered by approved Small House applications, can be found in close proximity to the Site within the same “GB” zone. The “V” zone of San Wai Tsai is situated about 7m to the southeast of the Site. Tai Po Sports Ground and Tai Po Swimming Pool are located within the “Government, Institution or Community” zone to the south of the Site.

**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 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 Small House  - Application site	-  -	100%  100%	- The Site and the proposed Small House footprint fall entirely within the “GB” zone.
2.	Within ‘VE’?  - Footprint of the Small House  - Application site	100%  100%	-  -	- The Site and the proposed Small House footprint fall entirely within the ‘VE’ of San Wai Tsai.  - The District Lands Officer/Tai Po, Lands Department (DLO/TP, 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)?	N/A		<u>Land Required</u> - Land required to meet Small House demand in San Wai Tsai: 0.03 ha (equivalent to 1 Small House site). The outstanding Small House application is 1 <sup>2</sup> while the IIR of San Wai Tsai has not provided the figure of 10-year Small House demand for San Wai Tsai.  <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the village concerned: about 0.041 ha (or equivalent to 1 Small House site) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within the “GB” zone.  - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view.

<sup>2</sup> The outstanding Small House application under the subject application falls outside the “V” zone which has not obtained valid planning approval from the Board.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
5.	Compatible with surrounding area/development?	✓		- The surrounding areas which are predominantly rural in character comprising village houses, car parks and recreational facilities.
6.	Within Water Gathering Ground (WGG)?		✓	- The Director of Environmental Protection (DEP) and the Chief Engineer/ Construction, Water Supplies Department (CE/C, WSD) have no objection to the application.
7.	Sewerage Impact		✓	
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no in-principle objection to the application.
10.	Traffic impact?	✓		- The Commissioner for Transport (C for T) considers the application only involving development of one Small House can be tolerated on traffic grounds.
11.	Drainage impact?	✓		<ul style="list-style-type: none"> <li>- The Chief Engineer/ Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint.</li> <li>- Approval condition on the submission and implementation of drainage and sewerage proposal for the Site is required.</li> </ul>
12.	Landscape impact?		✓	- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the application from the landscape planning perspective as significant adverse impact within the Site arising from the development is not anticipated.

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 9.1 above. Other detailed comments are at **Appendix V**.

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

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

- (a) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD); and
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD).

## **11. Public Comments Received During Statutory Publication Period (Appendix VI)**

On 30.8.2022, the application was published for public inspection. During the statutory public inspection period, a total of three public comments were received from individuals. Two of them object to the application and the remaining one raises concerns on the proposed development. Their major grounds of objection and concerns are that the proposed development will adversely affect the traffic, environment, ecology, utilities, sewerage and drainage of the surroundings as well as the villagers' safety and their living quality; the proposed development will increase the risk of fire hazard; and approval of the application would encourage similar applications that would effectively eliminate the "GB" zone.

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

12.1 The application is for a proposed Small House development at the Site zoned "GB" on the Tai Po OZP. The proposed development is not in line with the planning intention of "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. Nonetheless, DAFC has no strong view on the application from nature conservation point of view given that the Site has been formed.

- 12.2 The Site, located at the north-western fringe of San Wai Tsai, is currently hard paved and being used for parking of vehicles. The proposed development is not incompatible with the surrounding areas which is predominantly rural in character occupied by clusters of village houses (**Plans A-2a and A-3**). CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse impact on existing landscape resources within the Site is not anticipated. C for T considers that the application only involving development of a Small House can be tolerated on traffic grounds. Other relevant government departments including DEP, CE/MN of DSD, CE/C of WSD, D of FS, DO(TP) of HAD and CHE/NTE of HyD have no objection to or no adverse comment on the application. As the proposed development is not expected to have significant adverse environmental, traffic, drainage and sewerage impacts, the application is generally in line with TPB PG-No. 10.
- 12.3 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed Small House falls entirely within the ‘VE’ of San Wai Tsai (**Plan A-2a**). According to the DLO/TP, LandsD, the proposed Small House development under the subject application is the only outstanding Small House application for San Wai Tsai, and the IIR of San Wai Tsai has not provided the figure of 10-year Small House demand for the village. Based on the latest estimate by PlanD, about 0.041 ha of land (or equivalent to about one Small House site) is available within the “V” zone concerned (**Plan A-2b**). In this regard, the amount of land available within the “V” zone is sufficient to accommodate the outstanding Small House application. 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. Nevertheless, it is noted that the Site is located within the existing village proper of San Wai Tsai Village. There are also existing village houses covered by approved applications to the immediate west, south and east of the Site. The proposed Small House development will form part of the existing village cluster in the locality. Hence, sympathetic consideration could be given to the current application.
- 12.4 As shown on **Plan A-2a**, there are 11 similar applications in close proximity to the Site for Small House development within the same “GB” zone. All of these applications were approved by the Committee/the Board between 2003 and 2011 before the Board’s formal adoption of a more cautious approach in approving applications for Small House development in August 2015, mainly on the considerations that the application generally complied with the Interim Criteria in that the proposed Small Houses fell within the ‘VE’ of the concerned village, there was a shortage of land in the “V” zone in meeting the Small House demand at the time of consideration; and the proposed Small House developments were considered compatible with the surrounding areas, which were predominantly rural in character with clusters of village houses and temporary structures. Except the availability of land within “V” zone for accommodating outstanding Small House applications, the planning circumstances of the current application are similar to the above approved applications.
- 12.5 Regarding the public comments objecting to or raising concerns on the application as detailed in paragraph 11 above, government departments’ comments and the planning assessments above are relevant.

### **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 14.10.2026, 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 following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Condition

- the submission and implementation of drainage and sewerage 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**.

- 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 "GB" zone, which is primarily for defining the limits of urban and suburban 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 to justify a departure from the planning intention; and
  - (b) land is still available within the "V" zone of San Wai Tsai which is primarily intended for Small House development. 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.

### **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 and attachment received on 22.8.2022
Appendix II	Relevant revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	TPB PG-No. 10
Appendix IV	Similar applications
Appendix V	Detailed comments from relevant government departments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawings A-1 and A-2	Site plan and sewerage connection plan 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” zone
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT  
OCTOBER 2022**