

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/TP/698 and 699

<u>Applicants</u>	: Mr CHANG Kam Lun Mr PANG Ka Hong all represented by Mansfield Engineering Consultant Company	(Application No. A/TP/698) (Application No. A/TP/699)
<u>Sites</u>	: Lots 83 S.C RP and 470 S.D Lot 83 RP all in D.D. 21, San Uk Ka Village, Tai Po, New Territories	(Application No. A/TP/698) (Application No. A/TP/699)
<u>Site Areas</u>	: 120.7m ² (about) 121.6m ² (about)	(Application No. A/TP/698) (Application No. A/TP/699)
<u>Lease</u>	: Block Government Lease (demised for agricultural use) Block Government Lease (demised for agricultural and building use)	(Application No. A/TP/698) (Application No. A/TP/699)
<u>Plan</u>	: Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30	
<u>Zoning</u>	: “Green Belt” (“GB”)	
<u>Applications</u>	: Proposed House (New Territories Exempted House (NTEH) – Small House)	

1. The Proposals

- 1.1 The applicants, who claim themselves as indigenous villagers¹ of Sha Lo Tung Cheung Uk Village and Tai Po Tseng Tau Village respectively, seek planning permission to build a proposed NTEH (Small House) on each of the application sites (the Sites) in San Uk Ka Village (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House (NTEH only)’ in the “GB” zone is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Sites are currently covered with vegetation and hard-paved respectively.

¹ As advised by District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD), applicants’ eligibility for Small House grants has yet to be ascertained.

1.2 Details of each of the proposed NTEHs (Small Houses) are as follows:

Total Floor Area	:	195.09m ²
Number of Storeys	:	3
Building Height	:	8.23m
Roofed Over Area	:	65.03m ²

The applicants indicate that the uncovered area of the Sites would be used as open space or garden area. The layouts of the proposed Small Houses (including the septic tank and landscape plan) are shown in **Drawings A-1 to A-6** respectively.

1.3 The applicant under Application No. A/TP/699 has submitted a Geotechnical Investigation Report (GIR) for the proposed development.

1.4 Each of the Sites is the subject of a previous application (No. A/TP/571 and 662) submitted by the same applicants as the current applications for the same use (**Plans A-1 and A-2a**), which were approved by the Rural and New Town Planning Committee (the Committee) on 13.3.2015 and by the Board on review on 22.5.2020 respectively. Compared with the previously approved applications, the major development parameters of the proposed Small Houses under the current applications generally remain the same. Details of the previously approved applications are set out in paragraph 6 below.

1.5 In support of the applications, the applicants have submitted the following documents:

- (a) Application Forms with attachments received on 26.8.2024 and 27.8.2024 respectively (**Appendices Ia and Ib**)
- (b) Further Information received on 17.10.2024* (Application No. A/TP/698) (**Appendix Ic**)
*(*accepted and exempted from the publication and recounting requirements)*

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications are detailed at Application Forms at **Appendices Ia and Ib**, and summarized as follows:

- (a) as the Small House applications are currently being processed by the Lands Department (LandsD), more time is required for LandsD to handle objections received and consult legal advice before issuance of basic terms offer to the applicants; and
- (b) the Sites are the subject of previous approved applications by the same applicants, which is unlikely to have any adverse planning implications. The proposed developments would not cause significant landscape, visual and environmental impacts on the surrounding areas.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicants are the sole “current land owners” of the respective lots at the Sites. 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

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

6. Previous Applications

6.1 The Sites are the subject of two previous applications (No. A/TP/571 and 662) submitted by the same applicants for the same use which were approved by the Committee in 2015 and by the Board on review in 2020 respectively. Application No. A/TP/571 was approved mainly on considerations that the proposed development was in line with the Interim Criteria in that more than 50% of the footprint of proposed Small Houses fall within the ‘VE’ of San Uk Ka; the proposed development complied with TPB PG-No. 10 in that it would not have significant adverse impacts on the surrounding environment; and there was shortage of land within the “V” zone of Wu Yiu/ Cheung Uk Tei/ San Uk Ka to meet the Small House demand at the time of consideration. The validity of the planning permission has been extended twice to 13.3.2023. Application No. A/TP/662 was approved on sympathetic consideration that the proposed development was bounded by existing cluster of village houses to the north and south, and an approved Application No. A/TP/641 to the immediate west. The planning permission lapsed on 22.5.2024.

6.2 Details of the previous applications are summarized at **Appendix IV** and the locations are shown on **Plans A-1** and **A-2a**.

7. Similar Applications

7.1 As shown on **Plan A-2a**, there are 30 similar applications within the same “GB” zone in close proximity to the Site with 28 cases approved and two rejected since the first promulgation of the Interim Criteria on 24.11.2000. Of the approved cases, 26 applications were approved before the Board’s formal adoption of a more cautious approach² in approving applications for Small House development in August 2015. After that, there are two approved applications (No. A/TP/641 and 676) and one rejected application (No. A/TP/671).

² Among others, in considering whether there is a general shortage of land in meeting Small House demand, more weighing should be put on the number of Small House applications provided by LandsD.

- 7.2 Application No. A/TP/641 was approved by the Committee on 18.5.2018 after its previous application (No. A/TP/562) which was submitted by the same applicant and rejected by the Committee in 2014. Under Application No. A/TP/641, the applicant submitted a geotechnical planning review report (GPRR) to address the concerns on slope stability and slightly revised the site area and disposition of the proposed Small House away from the slope. That application was approved mainly on the grounds that the proposed development would not cause adverse geotechnical impact; and was in close proximity to existing Small Houses and a cluster of approved Small House applications.
- 7.3 Application No. A/TP/676, which was situated to the immediate east of No. A/TP/698, was approved by the Board on review on 26.11.2021 mainly for the reasons that the application site was sandwiched between a cluster of existing village houses and sites approved with Small House developments to the north and west and a vegetated artificial slope to the immediate south. As there is no room for further development of houses in the said cluster, sympathetic consideration has been given to the application.
- 7.4 Application No. A/TP/671 was rejected by the Board on review on 27.11.2020 mainly for the reasons that the proposed development was not in line with the planning intention of the “GB” zone; not complying with the Interim Criteria in that the proposed development would have adverse landscape impact on the surrounding areas; and land was still available within the concerned “V” zone for Small House development.
- 7.5 Details of the similar applications are summarized at **Appendix V** and their locations are shown on **Plan A-2a**.

8. The Sites and Their Surrounding Areas (Plans A-1 to A-4)

- 8.1 The Sites are:
- (a) within the village ‘environ’ (‘VE’) of San Uk Ka and in close proximity to a cluster of village houses;
 - (b) covered with vegetation for Application No. A/TP/698 and hard-paved for Application No. A/TP/699;
 - (c) located at the bottom of an artificial slope with some trees and groundcovers on the slope surface; and
 - (d) accessible via a footpath leading to Wun Yiu Road.
- 8.2 The surrounding areas are predominantly rural in character comprising a cluster of village houses, woodland and vegetated area.

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 applications have been assessed against the assessment criteria at **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? - Footprints of the proposed Small Houses - The Sites		100% 100%	- The Sites and the proposed Small House footprints fall entirely within the “GB” zone.
2.	Within ‘VE’? - Footprints of the proposed Small Houses - The Sites	100% 100%		- DLO/TP, LandsD advises that the Sites and the footprints of the proposed Small Houses fall entirely within the ‘VE’ of San Uk Ka.
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 San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu villages cluster: about 8.7 ha (equivalent to 348 Small House sites). The outstanding Small House applications are 25 ³ while the 10-year Small House demand forecast for the same village is 323. <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of the villages concerned: about 2.38 ha ⁴ (equivalent to 95 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?		✓	- There is a general presumption against development within the

³ Among the 25 outstanding Small House applications, 19 of them fall within the “V” zone and six straddle or outside the “V” zone. For those six applications straddling or being outside the “V” zone, none of them have obtained valid planning approval from the Board.

⁴ San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu have their own ‘VE’ overlapping with another(s). As the four villages are located within the same “V” zone, the total number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu village cluster (i.e. 25) is adopted for assessment against the land availability within the “V” zone (i.e. about 2.38 ha or equivalent to 95 Small Houses sites).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>“GB” zone.</p> <ul style="list-style-type: none"> - Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the applications.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The Sites are situated in an area of settled valleys landscape character surrounded by village houses, woodland and vegetated area.
6.	Within Water Gathering Grounds (WGGs)?		✓	<ul style="list-style-type: none"> - Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the applications. - Director of Environmental Protection (DEP) has no in-principle objection to the applications.
7.	Sewerage impact?		✓	
8.	Encroachment onto planned road networks and public works boundaries?		✓	
9.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> - Director of Fire Services (D of FS) has no in-principle objection to the applications.
10.	Traffic impact?	✓		<ul style="list-style-type: none"> - Commissioner for Transport (C for T) considers that Small House developments should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments 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 this, the applications only involving the development of two Small Houses can be tolerated on traffic grounds.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
11.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications from public drainage viewpoint.
12.	Landscaping impact?		✓	- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning perspective as significant adverse impact on the landscape character and the existing landscape resources within the Sites arising from the proposed developments is not anticipated.
13.	Geotechnical impact?		✓	- Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) has no in-principle objection to the applications.
14.	Local objections conveyed by DO?		✓	

10.2 Comments from the following government departments have been incorporated in paragraph 10.1 above. Other detailed comments are at **Appendix VI**.

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

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

- (a) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (b) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

11. Public Comments Received During Statutory Publication Period

On 3.9.2024, the applications were published for public inspection. During the statutory public inspection period, no public comment was received on the applications.

12. Planning Considerations and Assessments

- 12.1 The applications are for proposed Small House development on each of the Sites zoned “GB” on the OZP. The proposed developments are not in line with the planning intention of the “GB” zone, which is 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. DAFC has no strong view on the applications from nature conservation point of view.
- 12.2 The Sites are situated in an area of settled valley landscape character surrounded by a cluster of village houses, woodland and vegetation area. The proposed Small House developments are not incompatible with the landscape character of their surrounding areas. CTP/UD&L, PlanD has no objection to the applications as significant adverse impact on the existing landscape resources within the Sites arising from the proposed developments is not anticipated. C for T considers that Small House developments should be confined within the “V” zone as far as possible but given that the proposed developments only involve construction of one Small House on each Site (i.e. two Small House in total), the applications could be tolerated on traffic grounds. Other relevant government departments, including H(GEO), CEDD, DEP, CE/C, WSD, CE/MN, DSD and D of FS, have no objection to / no adverse comment on the applications.
- 12.3 Regarding the Interim Criteria, according to DLO/TP, LandsD, the number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu villages cluster is 25 while the 10-year Small House demand forecast is 323. Based on PlanD’s latest estimate, about 2.38 ha (equivalent to 95 Small House sites) is available within the “V” zone covering the concerned villages. While the amount of land available within the “V” zone (**Plan A-2b**) 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 considering applications for Small House development since August 2015. Among 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 as provided by LandsD. As such, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services. Nevertheless, as advised by DLO/TP, LandsD, the Site under Application No. A/TP/699 is held under Block Government Lease demised for agricultural and building use and covered by a Building Licence No. 103. In accordance with ‘the interim Criteria’, it has been the existing practice of the Board to take into account building status under the lease in considering planning application for Small House development.
- 12.4 The Sites are the subject of two previously approved applications submitted by the same applicants for the same use. The planning permissions lapsed on 13.3.2023

and 22.5.2024 respectively. Compared with the previous applications, the major development parameters of the proposed Small Houses generally remain the same. Although the previous approvals have lapsed, DLO/TP, LandsD advises that the Small House grant applications are still under processing. It should be noted that according to the Interim Criteria (d) (**Appendix II**), application with previous planning permission lapsed will be considered on its own merits. Sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses or the processing of the Small House grant is already at an advance stage. In view of the above, sympathetic consideration may be given to the applications.

- 12.5 There are 30 similar applications for Small House developments in the vicinity of the Site (**Plan A-2a**). Among them, two applications (No. A/TP/641 and 676) were approved and one application (No. A/TP/671) was rejected by the Committee between May 2018 and November 2021 after the Board's formal adoption of a more cautious approach mainly on considerations as detailed in paragraph 6.4. The planning circumstances of the current applications are different to the rejected application in that the Sites are the subject of previous approvals.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the applications.
- 13.2 Should the Committee decide to approve the applications, it is suggested that the permissions shall be valid until 25.10.2028, and after the said date, the permissions shall cease to have effect unless before the said date, the developments permitted are commenced or the permissions are renewed. ~~*The following conditions of approval and advisory clauses are also suggested for Members' reference: The recommended advisory clauses are attached at Appendix VII.*~~

Approval Conditions

~~*For Application No. A/TP/698*~~

~~*—the submission of a geotechnical planning review report to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.*~~

~~*For Application No. A/TP/699*~~

~~*—the submission of a revised geotechnical investigation report and implementation of the necessary geotechnical works identified therein to the satisfaction of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department 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 applications, 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 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 to justify a departure from the planning intention; and
- (b) land is still available within the “V” zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu 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 applications and decide whether to grant or refuse to grant the permissions.
- 14.2 Should the Committee decide to approve the applications, Members are invited to consider and advisory clause(s) to be attached to the permission, and the date when the validity of the permissions should expire.
- 14.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix Ia	Application Form (No. A/TP/698) with attachments received on 26.8.2024
Appendix Ib	Application Form (No. A/TP/699) with attachments received on 27.8.2024
Appendix Ic	Further Information received on 17.10.2024 (Application No. A/TP/698)
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Town Planning Board Guidelines
Appendix IV	Previous Applications
Appendix V	Similar Applications
Appendix VI	Detailed Comments from Relevant Government Departments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-6	Proposed Small Houses Layout Plans
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” zone of Ma Mei Ha Leng Tsui and Leng Pei Tsuen
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photo

**PLANNING DEPARTMENT
OCTOBER 2024**