

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

**APPLICATION NO. A/YL-ST/648**

<b><u>Applicant</u></b>	: Mr. WONG Yu Hong represented by Conrad Tang & Associates Limited
<b><u>Site</u></b>	: Lot 210 S.C in D.D. 96, Chau Tau Tsuen, San Tin, Yuen Long
<b><u>Site Area</u></b>	: About 82 m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) [maximum building height (BH) of 3 storeys (8.23m)]
<b><u>Application</u></b>	: Proposed House

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed house (**Plan A-1**). The Site falls within a “V” zone covering Pun Uk Tsuen and Chau Tau Tsuen on the San Tin OZP. According to the Notes of the OZP, ‘House (New Territories Exempted House (NTEH) only)’ is a Column 1 use which is always permitted whilst ‘House (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The proposed house is not a NTEH. The Site is currently fenced off, hard paved with some vegetation and partly occupied by a single-storey existing vacant house.
- 1.2 As shown on **Plans A-2 and A-3**, the Site is accessible from Castle Peak Road – Chau Tau via Chau Tau West Road and Chau Tau South Road. **Drawing A-1** shows the layout plan of the proposed development. Ingress/egress (4m wide) to the Site is provided at the northeastern site boundary. The proposed development comprises one 2-storey detached house (6m in height) with a gross floor area (GFA) of about 60 m<sup>2</sup>, a plot ratio of about 0.73 and a site coverage of about 36.59 %. One private car parking space will be provided at the Site. The floor plan is at **Drawing A-2**.

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

- (a) Application form with attachments received on 9.5.2023 (Appendix I)
- (b) Further Information (FI) received on 22.8.2023\* (Appendix Ia)

*Remarks: \* accepted and exempted from the publication requirement.*

1.4 On 23.6.2023, the Committee agreed to defer a decision on the application for a period of two months, as requested by the applicant's representative. The application is scheduled for consideration by the Committee at this meeting.

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

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

- (a) The Site was used for residential purpose before the publication in the Gazette of the notice of the San Tin Interim Development Permission Area Plan in 1990. As the GFA of the proposed redeveloped house does not exceed that of the existing house at the Site, it may be considered under exceptional circumstances.
- (b) There are proof including survey sheets, aerial photos, site photos and letter from the representatives of indigenous villagers showing that the existing house at the Site has existed for over 60 years.
- (c) The proposed house (two-storey and 6 m in height) is compatible with the surrounding land use which are mainly village houses of two to three storeys.
- (d) No adverse traffic, environmental, drainage, visual and landscape impacts are envisaged.
- (e) Although the proposed 2-storey detached house is not a NTEH or a Small House (SH) development by indigenous villagers and is not entirely in line with the planning intention of the "V" zone, it aims to cater for the housing need of the local residents.
- (f) There are ample amount of land within the "V" zone to cater for the outstanding SH demand even if the current application is approved. Hence, there would not be any significant impact on the land available for SH development in the area.

## 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**

The Site is not subject to any active planning enforcement action.

**5. Previous Application**

There is no previous application at the Site.

**6. Similar Application**

During the past five years, there was no similar application within the same “V” zone.

**7. The Site and Its Surrounding Areas (Plans A-1 to A-4)**

7.1 The Site is:

- (a) accessible from Castle Peak Road – Chau Tau via Chau Tau West Road and Chau Tau South Road; and
- (b) currently fenced off, hard paved with some vegetation and partly occupied by a single-storey vacant house.

7.2 The Site is located in a village settlement and the surrounding areas have the following characteristics:

- (a) to its northeast and north are vacant land;
- (b) to its immediate northwest and west is Chau Tau West Road and to its further northwest and west are existing village settlements and residential dwellings of Pun Uk Tsuen, a vehicle park and an open storage yard; and
- (c) to its east and south are existing village settlements and residential dwellings of Chau Tau Tsuen.

**8. Planning Intention**

The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses 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. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.

## **9. Comments from Relevant Government Departments**

- 9.1 Apart from the government departments as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices II and III** respectively.
- 9.2 The following government departments has been consulted and their views on the application are summarised as follows:

### **Land Administration**

#### **9.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):**

- (a) The Site comprises Old Schedule Agricultural Lot held under the Block Government Lease (BGL) which contains the restriction that no structures are allowed to be erected without prior approval of the Government.
- (b) The Site is within the 'village environ' and no SH application has been approved or is being processed at the Site. The number of outstanding SH application is 63 and the estimated 10-year SH demand is 325 for Chau Tau and Poon Uk Tsuen.
- (c) The existing house straddling on Lot 210 S.C in D.D. 96 (the Lot) and adjoining Government Land (GL) is regarded as an unauthorised structure which constitutes a breach of the BGL. As there are unauthorised building works and uses on the Lot which are already subject to lease enforcement actions according to case priority, the lot owner should rectify the lease breaches as demanded by LandsD.
- (d) The application involves demolition of the existing house and rebuilding into a 2-storey detached house within the lot boundary. Notwithstanding paragraph (b) above, should the Board approve the application, the applicant has to apply for a land exchange to implement the planning scheme. However, there is no guarantee at this stage that the land exchange application will be approved. Such application, if submitted, will be dealt with by LandsD acting in the capacity of the landlord at its sole discretion, and if it is approved, the approval will be subject to such terms and conditions including amongst others, the payment of premium and administrative fee as may be imposed by LandsD.
- (e) According to the detailed justifications submitted by the applicant, the proposed development is not a NTEH. The applicant should be reminded that any proposed building works should obtain the

approval of the Building Authority (BA) under the Buildings Ordinance (BO) (Cap. 123).

- (f) The proposed vehicular access to the Site would pass through the adjoining private lot, namely, Lot 211 RP in D.D. 96. The Government does not guarantee any right-of-way to the Site, and the applicant shall at his own expense make his own arrangements for acquiring such right-of-way.

### **Traffic**

#### 9.2.2 Comments of the Commissioner for Transport (C for T):

- (a) As the proposed vehicular access is connecting the end of Chau Tau West Road, which is across the existing footway and requires demolition of the existing railing, the applicant should be responsible for the works of the proposed vehicular access.
- (b) Having considered the applicant's submission including the FI, she has no further comment on the application. Should the application be approved by the Board, the following conditions should be imposed to the planning permission:
  - (i) submission of the run-in/run-out proposal for the development to the satisfaction of C for T and the Director of Highways (D of Hy); and
  - (ii) provision of the run-in/run-out for the development to the satisfaction of C for T and D of Hy.
- (c) Advisory comments as detailed in **Appendix III**.

### **Environment**

#### 9.2.3 Comments of the Director of Environmental Protection (DEP):

- (a) No environmental complaint relating to the Site was recorded in the past 3 years.
- (b) He has no comment on the application from the environmental point of view.
- (c) In view of the small population and nature of the proposed development, septic tank and soakaway system are acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental

Protection Department” and are duly certified by an Authorised Person.

### **Building Matters**

#### **9.2.4 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):**

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site. If the existing structures (not being a NTEH) are erected on leased land without approval of BA, they are unauthorised building works (UBW) under the BO and should not be designated for the proposed use under the application. For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (b) Advisory comments as detailed in **Appendix III**.

### **10. Public Comment Received During Statutory Publication Period**

On 16.5.2023, the application was published for public comments. During the statutory publication period, one public comment was received from a resident of Chau Tau Tsuen objecting to the application that the proposed development is not in line with the planning intention of the “V” zone; it would set a bad precedent and upset the indigenous villagers who are SH applicants in the “V” zone; and the Site is not accessible by vehicles and the existing house on-site is illegal (**Appendix IV**).

### **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed house at the Site (**Plan A-1**). The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SHs by indigenous villagers. According to the Notes of the OZP, ‘House (NTEH) only’ is a Column 1 use which is always permitted whilst ‘House (not elsewhere specified)’ is a Column 2 use which requires planning permission from the Board. The proposed house development is not in line with the above planning intention of the “V” zone even there is no SH application being processed/approved at the Site.
- 11.2 According to DLO/YL, LandsD, the Site, located in the ‘village environ’, is under a BGL demised for agricultural use with no building entitlement. DLO/YL, LandsD advises that the house currently erected on the subject lot and adjoining GL is regarded as an unauthorised structure which constitutes a breach of the lease and subject to lease enforcement actions. Besides, CBS/NTW, BD has no record

of approval granted by BA for the existing structures at the Site. If the existing structures, not being a NTEH, are erected on leased land without approval of BA, they would constitute a UBW under BO which may be subject to enforcement action as and when necessary. Moreover, there is no similar planning approval for non-NTEH house development within the same “V” zone. Based on the above, approval of the application would set an undesirable precedent for similar applications within the zone. The cumulative effect of approving such application would reduce the land available for SH development within the “V” zone.

- 11.3 The Site is located at the fringe of the village settlement of Chau Tau Tsuen, and the adjacent areas are predominantly occupied by village houses of 2 to 3 storeys, vehicles parks and unused/vacant land in close vicinity. The proposed two-storey house with a building height of 6m has not exceeded the height restriction of 3 storeys (8.23m) for development within the “V” zone and is considered not incompatible with the surrounding uses, which are mainly the village settlements.
- 11.4 Relevant government departments, including C for T, DEP, Director of Fire Services, Chief Engineer/Mainland North of Drainage Services Department and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or no adverse comment on the application.
- 11.5 Regarding the public comment as detailed in paragraph 10 above, the planning considerations and departmental comments above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department does not support the application for the following reason:

the proposed development is not in line with the planning intention of the “V” zone, which is primarily to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within “V” zone is primarily intended for development of small houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention.

- 12.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 13.10.2027, 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 conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) the submission of a run-in/run-out proposal for the development to the satisfaction of the Commissioner for Transport and the Director of

Highways or of the Town Planning Board;

- (b) in relation to (a) above, the provision of the run-in/run-out for the development to the satisfaction of the Commissioner for Transport and the Director of Highways or of the Town Planning Board;
- (c) the provision of water supply for firefighting and fire service installations to the satisfaction of the Director of Fire Services or of the Town Planning Board and
- (d) the submission of a drainage proposal and implementation of drainage facilities 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 III**.

**13. Decision Sought**

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

**14. Attachments**

<b>Appendix I</b>	Application Form received on 9.5.2023
<b>Appendix Ia</b>	FI received on 22.8.2023
<b>Appendix II</b>	Government Departments' General Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comment
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Floor Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos