

APPLICATION FOR AMENDMENT OF PLAN
UNDER SECTION 12A OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. Y/SK-HC/5

- Applicant:** Mr. Yip Tin Leung represented by Albert So Surveyors Limited
- Site:** Lot 764 in D.D.249 and Adjoining Government Land (GL), Wang Che, Sai Kung, New Territories
- Site Area:** About 123.25m² (including about 58.22m² GL)
- Land Status:** (a) Private lot (about 52.8%) held under New Grant No. 8351 and granted by way of exchange for Small House development on 17.6.1994
(b) GL (about 47.2%)
- Plan:** Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
- Zonings:** “Conservation Area” (“CA”) (about 92.7%)
“Village Type Development” (“V”) (about 7.3%)
- Proposed Amendment:** To rezone the application site from “CA” to “V”¹

1. The Proposal

- 1.1 The applicant proposes to rezone the application site (the Site) (**Plan Z-1**) from “CA” to “V” on the approved Ho Chung OZP No. S/SK-HC/11 (the OZP) to allow development of a New Territories Exempted House (Small House) and associated site formation works. According to the applicant, part of the Site (about 52.8%) which falls entirely within Lot 764 is for the development of a proposed Small House, and the remaining part of the Site (about 47.2%) falling on GL is for proposed associated site formation works (**Plan Z-2a**). The Site can be accessed via a village road leading to Ho Chung Road (**Plans Z-1 and Z-3**). The proposed site formation works within the Site include construction of a platform, retaining walls and associated drainage facilities. Besides, outside the Site within areas which are proposed to retain as the “CA” zoning, the applicant proposes to carry out slope stabilisation works with soil nails as

¹ A minor portion (about 7.3%) of the Site falls within an area zoned “V”. According to the Notes of the OZP, ‘House (New Territories Exempted House only)’ is always permitted within the “V” zone. The “V” zone portion of the Site has been included in the calculation of site area.

required by concerned government department² (**Drawing Z-1**). No tree felling will be required (**Drawing Z-2**). In view of that the Site falls entirely within the Water Gathering Grounds (WGG) and is not served by public sewerage system, the applicant proposes an underground sewage holding tank to be used in lieu of the septic tank and soakaway system. Major development parameters of the proposal are as follows:

Major Development Parameters	Proposed Small House	Proposed Site Formation Works
Site Area	About 65.03m ² (about 52.8%)	About 58.22m ² (about 47.2%)
	Total: About 123.25m ²	
Land Status	Lot 764 with entitlement for Small House development	GL
No. of Block	1	--
Building Height	Not more than 8.23m	--
No. of Storey	Not more than 3	--
Gross Floor Area	Not more than 195.09m ²	--

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

- (a) Application form received on 20.12.2022 (Appendix I)
 - (b) Planning statement (Appendix Ia)
 - (c) Further information (FI) dated 9.2.2023* (Appendix Ib)
 - (d) FI dated 8.3.2023* (Appendix Ic)
- (*accepted and exempted from publication and recounting requirements)

1.3 The annotated site formation plan and tree survey plan submitted by the applicant are shown in **Drawings Z-1** and **Z-2**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in section 5 of the planning statement in **Appendix Ia** and FI in **Appendices Ib** and **Ic**. They can be summarised as follows:

- (a) approval of the application would provide the applicant a fair opportunity to exercise the development right under lease. The lease for Lot 764 was granted on 17.6.1994 shortly after the gazettal of the first OZP on 20.5.1994 covering the area, and the adjacent lot (i.e. Lot 763) within the “V” zone granted on the same date subject to similar lease terms was already developed in around 1998;
- (b) due considerations on the impacts of the proposed Small House should have been considered in granting Lot 764 back in 1994. A tree survey, a sewerage impact

² According to the covering Notes of the OZP, geotechnical works co-ordinated or implemented by Government is always permitted within the “CA” zone.

assessment and risk assessment have been undertaken by the applicant. With appropriate mitigation measures, no insurmountable environmental impact will be induced by the Small House development. The applicant is willing to provide a letter undertaking to comply with the various requirements in relation to the WGG;

- (c) the proposed Small House is compatible with the surrounding Wang Che Village and will put the Site under active management for a better environment; and
- (d) given the aforementioned unique circumstances of the proposed development, approval of the subject application will not set an undesirable precedent for other rezoning applications from “CA” to “V”.

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

The applicant is the sole “current land owner” of Lot 764. Detailed information would be deposited at the meeting for Members’ inspection. The “owner’s consent/notification” requirement is not applicable on the portion of GL within the Site.

4. Background

- 4.1 The Site fell mainly on “Unspecified Use” area and was partly zoned “V” on the Ho Chung Interim Development Permission Area (IDPA) Plan No. IDPA/SK-HC/1 gazetted on 17.8.1990. It was zoned mainly “Green Belt” (“GB”) and partly “V” on the draft Ho Chung Development Permission Area (DPA) Plan No. DPA/SK-HC/1 gazetted on 12.7.1991 and the approved Ho Chung DPA Plan No. DPA/SK-HC/2 approved on 22.2.1994. Subsequently, areas of approximately 141.34ha (about 47.15% of the planning scheme area) broadly covering the hillslopes and natural woodland, including a major part of the Site, was rezoned as “CA” on the first Ho Chung OZP gazetted on 20.5.1994. Since then, there has been no change to the zoning of the Site.
- 4.2 No objection/representation regarding the Site on the IDPA Plan, DPA Plan and OZP had been received.

5. Previous Application

The Site was the subject of a withdrawn application No. Y/SK-HC/4 submitted by the same applicant for the same rezoning from “CA” to “V” but covering a significantly larger site (about 259.03m² (+110%)) which involved more encroachment onto GL within areas zoned “CA”.

6. Similar Application (Plan Z-1)

There is a similar section 12A rezoning application No. Y/SK-HC/2 for proposed rezoning of a site from “CA” to “V” to regularise an existing Small House and private

garden on the site, which was rejected by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on 15.4.2011. The application was rejected mainly on the reasons that the private garden with concrete paving and boundary wall had adverse impacts on the landscape character of the woodland in the “CA” zone and was incompatible with the landscape character of the surrounding woodland; the applicant failed to demonstrate that the rezoning proposal would have no adverse impact on the WGG; the proposed rezoning would set undesirable precedent for other similar rezoning applications in the area; and the cumulative impact of approving such applications would result in general degradation of the natural environment.

7. The Site and Its Surrounding Areas (Plans Z-1 to Z-2b, Aerial Photo on Plan Z-3 and Site Photos on Plans Z-4a and 4b)

7.1 The Site is :

- (a) located entirely within the village ‘environs’ (‘VE’) of Kai Ham (including Wang Che) and the WGG;
- (b) located at the southwest periphery of Wang Che village cluster;
- (c) the central portion of the Site mainly occupied by Lot 764 is flat and vacant with some groundcovers but no significant vegetation; and
- (d) along the eastern and southern boundaries of the Site are mainly GL with gentle downward slopes.

7.2 The surrounding areas have following characteristics:

- (a) to the immediate north is a village house with a blank façade facing the Site. To the further north and northeast is the main village cluster of Wang Che;
- (b) to the immediate east is a village road leading to Ho Chung Road; and
- (c) to the immediate south and southwest is a village access leading to the existing village houses nearby. To the further south and west are densely vegetated slopes within the “CA” zone.

8. Planning Intention

The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment such as Site of Special Scientific Interest or Country Park from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) no objection to the application;
- (b) the Site is located at Lot 764 and the adjoining GL in D.D. 249. Lot 764 is held under New Grant No. 8351 and granted by way of exchange for Small House development on 17.6.1994;
- (c) the Site falls entirely within the 'VE' of Kai Ham (including Wang Che) in Sai Kung Heung which is a recognized village under the New Territories Small House Policy;
- (d) the Indigenous Inhabitant Representative (IIR) of Wang Che had been requested to provide a 10-year forecast for Small House demand at Wang Che Village for 2022 onwards, but no response was heard. As the IIR of Wang Che has not provided 10-year forecast for Small House demand in the past 10 years, no figure is available;
- (e) there are a total of seven outstanding Small House applications in Kai Ham (including Wang Che);
- (f) the applicant has been certified as an indigenous villager of Kai Ham by the IIR of the village; and
- (g) while there is no objection to the proposed rezoning of the Small House site at Lot 764 to "V" zone, there is reservation to the proposed rezoning of the adjoining GL from "CA" to "V" without having prior agreement by the relevant government departments and his office on the extent of GL that would be affected by the proposed site formation works. If the subject application is approved, prior written permission should be obtained from relevant government departments and his office before commencement of any works on Lot 764 and the adjoining GL, and slope stabilisation and drainage works on GL outside the Site.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) the development of Small House 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, development of Small House outside the "V" zone, if permitted, will set an

undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and

- (b) notwithstanding the above, the application only involves construction of one Small House and it is considered that this application can be tolerated on traffic grounds.

Nature Conservation

9.1.3 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

the Site is mainly vacant and covered with common vegetation. The adjacent slope is partly covered with woodland vegetation with native trees. According to the submission, the slope stabilisation works will only involve soil nail installation. No land excavation and tree felling will be required. There is no strong view on the application.

Urban Design and Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

Urban Design

- (a) the Site is on unpaved land with ground vegetation. It abuts a 3-storey village house to its north, a village road to its east and a footpath to its south and west. Low-rise village type developments are located in the immediate surrounding of the Site. Noting the site context, the proposed development is considered not incompatible with the surrounding area;

Landscape

- (b) based on the aerial photo (**Plan Z-3**), it is observed that the Site is situated in an area of settled valley landscape character predominated by village houses and woodlands. As the Site is located immediately next to the village cluster of Wang Che, the proposed Small House development is considered not incompatible with the surrounding setting;
- (c) according to the submission, the Site is currently vacant with no significant vegetation observed. The proposed Small House development requires site formation and slope stabilisation works for an adjacent slope within the “CA” zone within which 12 existing trees are found in a close distance to the Site. With reference to the submitted Tree Survey Report, all 12 existing trees will be retained under precautionary measures for the proposed soil nailing works. Significant adverse impact on the existing landscape is not anticipated. There is no adverse comment on the application from landscape planning perspective; and

- (c) other detailed comments are at **Appendix II**.

Environment

9.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) the Site is located within WGG. Based on the submission, all sewage generated from the proposed Small House will be stored in an underground holding tank which will be regularly cleared by a licensed contractor for further treatment outside WGG; and
- (b) no adverse comment on the submitted sewerage impact and risk assessment (SIRA). With the implementation of the preventive measures in the SIRA, no adverse environmental impact from the proposed development is anticipated. There is no in-principle objection to the application provided that there is appropriate control mechanism for the implementation of the proposed measures.

Water Supply

9.1.6 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

no comment on the application having taken into account that (a) there are conditions imposed on the executed lease of Lot 764 for pollution control within WGG; (b) the applicant will provide a letter undertaking to comply with his department's requirements as detailed in **Appendix II**; (c) his department will be further consulted during the subsequent stages of approval by relevant government departments after the rezoning process; (d) the application is to resolve the incompatibility between the land entitlement and the statutory planning regime; and (e) the current application shall not be considered as a precedent case for other similar applications.

Geotechnical

9.1.7 Comments of the Head of the Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) no geotechnical objection to the proposed site formation works; and
- (b) the slope stabilisation works on the slope adjacent to the Site is considered as a pre-requisite prior to the occupation of the proposed Small House.

9.2 The following government departments have no comment on/ no objection to the application. Their detailed comments, if any, are at **Appendix II**.

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS,

- DSD);
- (c) Director of Electrical and Mechanical Services;
 - (d) Project Manager (East), East Development Office, CEDD;
 - (e) Director of Fire Services (D of FS);
 - (f) Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department;
 - (g) Chief Engineer (Works), Home Affairs Department; and
 - (h) District Officer (Sai Kung), Home Affairs Department.

10. Public Comments Received During Statutory Publication Period

On 30.12.2022, the application was published for public inspection. During the statutory public inspection period, four comments, all objecting to the application, were received from Designing Hong Kong Limited and individuals (**Appendix II**). The grounds of objection include not being in line with the planning intention of the “CA” zone, land is still available within the “V” zones in the vicinity, exacerbating traffic congestion and safety issues, and potential adverse environmental, landscape and water quality impacts.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area mainly zoned “CA” (about 92.7%) with a minor portion zoned “V” (about 7.2%) on the OZP. The applicant proposes to rezone the Site from “CA” to “V” to facilitate the development of a 3-storey Small House with associated site formation works.
- 11.2 The planning intention of the “CA” zone is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment from the adverse effects of development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted. The proposed rezoning of the Site for Small House development should generally not be supported unless under very special circumstances. In this regard, the considerations and assessments in paragraphs 11.3 to 11.5 below are relevant.
- 11.3 The Site is on the periphery of the “V” zone and falls entirely within the ‘VE’ of Kai Ham (including Wang Che). It is situated in an area of settled valley landscape character predominated by village houses and woodlands. The Site is currently vacant with some groundcovers but no significant vegetation is observed at the Site. An existing village house is found immediately adjoining the Site to its north and the Wang Che village cluster is located closely to the northeast of the Site. The applicant has undertaken that all existing trees in the proximity of the Site will be retained in the course of conducting the required site formation works. DAFC has no adverse comment on the application from nature conservation perspective and CTP/UD&L, PlanD advises that significant adverse impact on the existing

landscape is not anticipated.

- 11.4 According to DLO/SK, LandsD, Lot 764 within the Site was granted by way of exchange for Small House development on 17.6.1994 shortly after the publication of the first OZP on 20.5.1994 covering the area, whereas the major part of the Site was rezoned from “GB” to “CA” as part of the broad rezoning of the vast extents of hillslopes and natural woodland in the Ho Chung area. As there is no provision for development of a new house within the “CA” zone on the OZP, rezoning of the Site is the only means to facilitate the applicant’s exercising of the building entitlement under lease.
- 11.5 According to the available information on Small House demand³ and supply⁴, the land available in the “V” zone of Kai Ham (including Wang Che) can fully meet the outstanding Small House applications. While it is considered more appropriate to concentrate Small House developments within the “V” zone for more orderly development patterns, efficient use of land and provision of infrastructure and services, having considered the unique planning circumstances of the application, the landscape settings of the Site and surrounding areas, the purposes of occupying the adjoining GL for essential site formation and drainage works, and the need to respect the applicant’s development right under lease, sympathetic consideration may be given to the current application.
- 11.6 Government departments concerned, including C for T, DEP, CE/C, WSD, CE/MS, DSD, H(GEO), CEDD and D of FS have no adverse comment on/ no objection to the application on traffic, environmental, water quality, drainage and sewerage, geotechnical and fire safety aspects. In terms of slope safety, H(GEO), CEDD indicated that it will be a pre-requisite to carry out slope stabilisation works adjoining the Site within the “CA” zone by soil nailing prior to the occupation of the proposed Small House. As for the water quality and sewerage aspects, the detailed design and implementation of the proposed mitigation measures will be controlled by the prevailing mechanisms under the land administration regime and/or the Buildings Ordinance, as the case may be. The applicant will also provide an undertaking letter to comply with WSD’s requirements in relation to the WGG in the next stage.
- 11.7 There is one similar rezoning application No. Y/SK-HC/2 for proposed rezoning of a site from “CA” to “V” to regularise an existing Small House and private garden on the site, which was rejected by the Committee on 15.4.2011 for reasons as detailed in paragraph 6 above. The current application is different in that no adverse landscape impact is anticipated, it is not incompatible with the surrounding landscape character, and mitigation measures have been proposed in relation to sewage treatment for the Site which falls within WGG.
- 11.8 For the public comments objecting to the application on grounds of not being

³ According to DLO/SK, LandsD, the number of outstanding Small House applications in Kai Ham (including Wang Che) is seven, and no figure on the 10-year Small House demand forecast has been provided by the IIR.

⁴ According to the latest estimate by PlanD, it is estimated that about 1.66ha of land (equivalent to about 66 Small House sites) is available within the “V” zone of Kai Ham (including Wang Che) (**Plan Z-2b**).

in line with the planning intention of the “CA” zone, availability of land within the “V” zone and the potential adverse impacts brought about by the proposed Small House development, the concerned departmental comments in paragraph 9 and the planning considerations and assessments in paragraphs 11.1 to 11.7 above are relevant.

12. Planning Department’s Views

12.1 Based on the assessments made in paragraph 11 and having taken into account public comments mentioned in paragraph 10 above, the Planning Department has no in-principle objection to the application.

12.2 Should the Committee decide to agree/partially agree to the application, the proposed amendments to the Ho Chung OZP, together with the revised Notes and Explanatory Statement, will be submitted to the Committee for consideration prior to gazetting under the Town Planning Ordinance.

12.3 Alternatively, should the Committee decide not to agree to the application, the following reason is suggested for Members’ reference:

land is still available within the “Village Type Development” (“V”) zone of Kai Ham (including Wang Che) 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 patterns, efficient use of land and provision of infrastructure and services. There is no strong planning justification for rezoning the application site from “Conservation Area” to “V” to make provision for Small House development.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.

13.2 Should the Committee decide not to agree to the application, Members are invited to advise what reason(s) for decision should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 20.12.2022
Appendix Ia	Planning Statement
Appendix Ib	FI dated 9.2.2023
Appendix Ic	FI dated 8.3.2023
Appendix II	Detailed Departmental Comments
Appendix III	Public Comments
Drawing Z-1	Site Formation Plan
Drawing Z-2	Tree Survey Plan
Plan Z-1	Location Plan
Plans Z-2a and 2b	Site Plans

Plan Z-3	Aerial Photo
Plans Z-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**