

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/566

<u>Applicant</u>	:	Mr. MAN Wai Lun represented by Glister Engineering Consultants Company
<u>Site</u>	:	Lot 281 S.A in D.D.96, San Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 144 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	:	“Green Belt” (“GB”)
<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 villager¹ of Chau Tau, seeks planning permission to build a house (NTEH - Small House) on the application site (the Site) in Chau Tau Tsuen, San Tin. The Site falls within an area zoned “GB” on the approved San Tin OZP No. S/YL-ST/8 (**Plans A-1 and A-2a**). According to the Notes of the OZP, ‘House’ (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes) is a Column 2 use within the “GB” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by a temporary structure (**Plan A-4**).
- 1.2 The proposed Small House has a covered area of 65.03m² and a total gross floor area of 195.09m², and is of 3 storeys (8.23m) high. The applicant has indicated that the uncovered area of the Site will be used as garden. A septic tank is proposed for the house. No car parking space or vehicular access is proposed within the Site. The layout of the proposed Small House development is at **Drawing A-1**.

¹ As advised by the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD), the status and eligibility of the Small House applicant have yet to be verified.

- 1.3 In support of the application, the applicant has submitted an application form which was received on 17.12.2019 (**Appendix I**).
- 1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (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 Part 8 of the Application Form at **Appendix I**. They can be summarised as follows:

- (a) The applicant is the registered owner of the Site. He is an indigenous villager and is entitled to a Small House grant in accordance with the current Small House Policy of LandsD.
- (b) The Site falls within the Village 'Environs' ('VE'). The proposed development is compatible with the surrounding environment and land use.

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, which was 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 this application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development in the "GB" zone;

- (b) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. The scale and intensity of the proposed development including the plot ratio, site coverage and building height should be compatible with the character of the surrounding areas. With the exception of NTEHs, a plot ratio up to 0.4 for residential development may be permitted;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. The development should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, or cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area;
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution; and
- (h) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Background

The Site is not subject to planning enforcement action.

7. Previous Application

The Site is not the subject of any previous application.

8. Similar Applications

8.1 There were 8 similar applications for NTEH (Small House) within/partly within the “GB” zone since the first promulgation of the Interim Criteria on 24.11.2000. All 8 applications were rejected.

8.2 6 Applications (No. A/YL-ST/173, 215, 226, 256, 338 and 339) were rejected

by the Committee between 2001 and 2007 mainly for the reasons that the proposed development is not in line with the planning intention of the “GB” zone; there is insufficient information in the submission to demonstrate other suitable sites within the “V” zone in the area could not be identified for the proposed development; approval of the application would set an undesirable precedent for similar applications within the same “GB” zone; and the cumulative effect of approving such similar applications would affect the setting and the natural environment of the “GB” zone. The remaining 2 applications (No. A/YL-ST/473 and 474) were rejected by the Committee in 2015 mainly on similar grounds and that the proposed development did not comply with TPB-PG No. 10 in that the proposed development would involve extensive clearance of existing natural vegetation that could adversely affect the landscape character of the surrounding areas.

8.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

9. The Site and Its Surrounding Area (Plans A-1 to A-4b)

9.1 The Site is:

- (a) partly occupied by a temporary structure;
- (b) accessible from the southwest via a village road off Chau Tau South Road; and
- (c) falls entirely within the ‘VE’ of Chau Tau Tsuen.

9.2 The surrounding area is predominantly rural in character intermixed with village houses, vehicle parks, vehicle repair workshop, orchard, cultivated and fallow agricultural land, and vacant and unused land. Some vehicle parks and vehicle repair workshop are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to the immediate north and northwest are temporary residential structures. To the further northwest are village houses of Chau Tau Tsuen, vehicle parks, a village hall, a vacant school and unused land;
- (b) to the immediate northeast is unused land. To the further east and northeast are temporary residential structures, vacant and unused land, an orchard and a vacant chicken farm;
- (c) to the immediate south are residential structures. To the further south are vehicle parks, a vehicle repair workshop, a construction site and unused land; and
- (d) to the immediate west is fallow agricultural land. To the further west and southwest are vacant land, a construction site, a vehicle park, village houses of Chau Tau Tsuen, and cultivated and fallow agricultural land.

10. 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.

11. Comments from Relevant Government Departments

11.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised 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 - The Site	- -	100% 100%	- The Site of the proposed Small House and its footprint entirely fall within “GB” zone.
2.	Within ‘VE’? - Footprint of the proposed Small House - The Site	100% 100%	- -	- DLO/YL, LandsD has advised that the Site falls within the ‘VE’ of Chau Tau Tsuen.
3.	Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?		✓	- Land required to meet Small House demand in Chau Tau Tsuen and Poon Uk Tsuen: about 10.6 ha (equivalent to 424 Small House sites). The outstanding Small House applications for the two concerned villages are 46 while the 10-year Small House demand forecast is 378.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet the Small House demand within the “V” zone of the two concerned villages: about 4.8 ha (equivalent to about 192 Small House sites) (Plan A-2b).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “GB” zone?		✓	<ul style="list-style-type: none"> - The Director of Agriculture, Fisheries and Conservation (DAFC) notes that the Site and the surrounding areas are paved and disturbed and that the Site falls entirely within the “GB” zone. - There is a general presumption against development within the “GB” zone.
5.	Compatible with surrounding area/development?	✓		<ul style="list-style-type: none"> - The surrounding area is predominantly rural in character intermixed with village houses, vehicle parks, cultivated and fallow agricultural land, and vacant and unused land.
6.	Within Water Gathering Grounds (WGGs)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no specific comment on the application. The applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements”. Detailed fire safety requirements will be formulated upon receipt of formal application referred by the LandsD.
9.	Traffic impact?		✓	<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has no comments from traffic engineering point of view based on the understanding that there will be no vehicular ingress/egress to the Site and no parking space to be provided within the Site. - The Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD) notes that no vehicular access is proposed or to be granted under the

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				application. He has no comment from highways maintenance point of view.
10.	Drainage impact?		✓	- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection in principle to the application from drainage operation and maintenance point of view and advised that adequate stormwater drainage collection and disposal facilities shall be provided.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has advised that in view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage.
12.	Landscaping impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservation on the application from the landscape planning perspective. - According to aerial photo taken in 2019, the Site is occupied by temporary structure without any significant landscape resources. Although further significant adverse landscape impact arising from the development is not anticipated, there is concern that approval of the proposed Small House may set an undesirable precedent for similar applications. The cumulative impact of approving such applications would result in more "GB" zone being disturbed and thus leading to the degradation of existing landscape quality of the surrounding area.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Local objections conveyed by District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD)?		✓	<ul style="list-style-type: none"> - The District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD) has not received any comments from the locals on the application. - Public comments received during the statutory publication period are at Appendix V and see also paragraph 12 below.

11.2 Comments from the following Government departments have been incorporated in paragraph 11.1 above. Their other detailed comments, if any, are at **Appendix IV**.

- (a) DLO/YL, LandsD;
- (b) DAFC;
- (c) D of FS;
- (d) C for T;
- (e) CHE/NTW, HyD;
- (f) CE/MN, DSD;
- (g) DEP;
- (h) CTP/UD&L, PlanD; and
- (i) DO(YL), HAD.

11.3 Detailed comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) are also at **Appendix IV**.

11.4 The following Government departments have no comment on or objection to the application:

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, (CE/RD2-2, RDO), HyD;
- (b) Commissioner of Police (C of P);
- (c) Director of Food and Environmental Hygiene (DFEH);
- (d) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (e) Project Manager (West) (PM(W)), CEDD;
- (f) Director of Electrical and Mechanical Services (DEMS);
- (g) Director of Leisure and Cultural Services (DLCS); and
- (h) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

12. Public Comments Received During Statutory Publication Period

On 24.12.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 4 public comments were received

from the Kadoorie Farm and Botanic Garden Corporation, Designing Hong Kong, village representative of Chau Tau Tsuen and a member of the public objecting to the application. They were concerned that the proposed use is not in line with the planning intention of the “GB” zone, encroachment onto “GB” zone is undesirable, similar applications for Small House developments in the same “GB” zone were rejected, there would still be enough land for Small House development within the adjacent “V” zone covering both Chau Tau and Pun Uk Tsuen, and use of septic tank is undesirable (**Appendix V**).

13. Planning Considerations and Assessments

- 13.1 The application is for a proposed NTEH (Small House) within “GB” zone. The proposed development is not in line with the planning intention of the “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 the “GB” zone. DAFC considers that the Site falls entirely within “GB” zone for which there is presumption against development. The proposed development is not in line with the planning intention of the “GB” zone and no strong planning justification has been given in the submission for a departure.
- 13.2 The Site is currently partly occupied by a temporary residential structure. The proposed Small House is not incompatible with surrounding environment which is predominantly rural in character intermixed with village houses, vehicle parks, cultivated and fallow agricultural land, and vacant and unused land.
- 13.3 Regarding the Interim Criteria (**Appendix II**), although the entire footprint of the proposed Small House falls within the ‘VE’ of Chau Tau Tsuen (**Plan A-1**), the entire footprint and the Site of the proposed Small House fall outside the “V” zone. The proposed Small House development is considered not favourable in that piecemeal and haphazard development of Small House outside “V” zone should not be encouraged and these developments would frustrate the planning intention of the “GB” zone. Besides, according to DLO/YL, LandsD, the total number of outstanding Small House applications for Chau Tau Tsuen and Pun Uk Tsuen is 46, and 10-year Small House demand forecasts for the two recognized villages are 378. Based on the latest estimate by PlanD, about 4.8 ha (or equivalent to about 192 Small House sites) of land is available within the “V” zone of the two concerned villages (**Plan A-2b**). There is sufficient land available within the “V” zone to meet the outstanding Small House applications though it cannot fully meet the forecast 10-year Small House demand. In recent years, the Board has adopted a more cautious approach in considering applications for Small House development. 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. For the current application, as land is available within the “V” zone to meet the outstanding 46 Small House applications, it is considered more appropriate to concentrate the proposed Small House developments within the “V” zone for orderly development pattern,

efficient use of land and provision of infrastructures and services.

- 13.4 The proposed development does not comply with the TPB-PG No. 10 as there is a general presumption against development in the “GB” zone. CTP/UD&L, PlanD has reservation on the application from the landscape planning perspective, as he considers that although further significant adverse landscape impact arising from the development is not anticipated, approval of the application would set an undesirable precedent for other similar applications within the “GB” zone and encourage further expansion of village development in the zone. The cumulative effect of approving such applications would lead to general deterioration of the landscape quality and undermine the intactness of the “GB” zone.
- 13.5 There are 8 similar applications for proposed Small House development within the same “GB” zone in vicinity of Chau Tau Tsuen and Pun Uk Tsuen which were all rejected by the Committee between 2001 and 2015 mainly for the reasons that the proposed developments were not in line with the planning intention of the “GB” zone; there was insufficient information in the submission to demonstrate other suitable sites within the “V” zone in the area could not be identified for the proposed development; approval of the application would set undesirable precedence for similar applications within the same “GB” zone, the cumulative effect of approving such similar applications would affect the setting and the natural environment of the zone and the proposed development did not comply with TPG PG-No.10. Rejection of the application is in line with the previous decisions of the Committee on similar applications in the area.
- 13.6 There are 4 objecting public comments received raising concerns on the application as detailed in paragraph 12. The relevant Government departments’ comments and planning assessments as stated above are relevant.

14. Planning Department’s Views

- 14.1 Based on the assessments made in paragraph 13 and having taken into account the public comments mentioned in paragraph 12, the PlanD does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “GB” zone which is to define the limits of urban development areas by natural physical features so as to contain urban sprawl and 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;
 - (b) land is still available within the “V” zone of Chau Tau Tsuen and Poon Uk Tsuen where land is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development close to the existing village cluster within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructure and services; and

- (c) the approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the natural environment in the area.

14.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.3.2024, and after the said date, the permission shall cease to have effect unless before the said date, the developments permitted are commenced or the permission are renewed. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage 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 VI**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 15.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 15.3 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.

16. Attachments

Appendix I	Application Form received on 17.12.2019
Appendix II	Relevant Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix III	Similar Applications

Appendix IV	Detailed Comments from Relevant Government Departments
Appendix V	Public Comments received during the Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2a	Site Plan
Plan A-2b	Estimated Amount of Land Available for Small House Development within the “V” Zone
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2020**