

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

**APPLICATION NO. A/SK-TMT/66**

- Applicant** : Mr. CHEUNG Chun Wa represented by Mr. WONG Sun Wo William
- Site** : Lot 33 RP in D.D. 256, Tai Po Tsai Village, Tai Mong Tsai, Sai Kung,  
New Territories
- Site Area** : 267.1m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Mong Tsai and Tsam Chuk Wan Outline Zoning Plan (OZP) No.  
S/SK-TMT/4
- Zoning** : “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 Po Tsai Village, seeks planning permission for development of one NTEH (Small House) at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, NTEH development within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The Site is the subject of two rejected previous applications for NTEH (Small House) development (Applications No. A/SK-TMT/53 and A/SK-TMT/57) submitted by the same applicant. The Small House layout proposed in this application is the same as the previous applications. The major development parameters are summarized as follows:
- |                  |                      |
|------------------|----------------------|
| Site Area:       | 267.1m <sup>2</sup>  |
| Covered Area:    | 65.03m <sup>2</sup>  |
| Total GFA:       | 195.09m <sup>2</sup> |
| No. of Storeys:  | 3                    |
| Building Height: | 8.23m                |
- 1.3 In support of the application, the applicant has submitted the application form and attachments received on 25.8.2020 (**Appendix I**).
- 1.4 The plans submitted by the applicant are shown in **Drawings A-1 to A-4**.

## 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** and is summarized as follows:

the applicant intends to apply for Small House development on the government land within the “Village Type Development” (V”) zone on the OZP. However, the Village Representative has advised that vacant government land in the “V” zone is densely vegetated. The development of Small House on government land would involve extensive clearance of vegetation, which would not be acceptable by the local villagers. As advised by the Village Representative, the Site would be more suitable for Small House development and no villagers would object to the application.

## 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 promulgated on 7.9.2007 and is at **Appendix II**.

## 5. **Town Planning Board Guidelines**

Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for Application for Development within “Green Belt” Zone under section 16 of the Town Planning Ordinance’ is relevant to this application (**Appendix III**). 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 surrounding areas;
- (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 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; and
- (f) any proposed development on a slope or hillside should not adversely affect slope stability.

## 6. Previous Applications (Plans A-1 and A-2a)

- 6.1 The Site is the subject of two previous planning applications for NTEH (Small House) development (Applications No. A/SK-TMT/53 and A/SK-TMT/57), both submitted by the same applicant.
- 6.2 Application No. A/SK-TMT/53 was rejected by the Rural and New Town Planning Committee (the Committee) on 10.6.2016 on the grounds of not in line with the planning intention of “GB” zone; not in line with the TPB PG-No. 10; the applicant fails to demonstrate that the proposed development would not cause adverse landscape impact on “GB” zone; and setting an undesirable precedent for other similar applications within the “GB” zone.
- 6.3 Application No. A/SK-TMT/57 was rejected upon review by the Board on 23.3.2018 on the grounds that the proposed development was not in line with the planning intention of “GB” zone; not in line with the Interim Criteria; not in line with the TPB PG-No. 10; land is still available within the “V” zone of Tai Po Tsai for Small House development; and setting an undesirable precedent for other similar applications within the “GB” zone.
- 6.4 Details of the above previous applications are summarized at **Appendix IV** and its location is shown on **Plans A-1 and A-2a**.

## 7. Similar Application

- 7.1 There is one similar application (Application No. A/SK-TMT/31) for 4 proposed NTEHs (Small Houses) in the vicinity of the Site and within the same “GB” zone on the OZP (**Plans A-1 and A-2a**). The application was rejected by the Board on 23.12.2011 on grounds of not in line with the planning intention of “GB” zone; general incompliance with the Interim Criteria and possible adverse impacts on the water quality of the area.
- 7.2 Details of the similar application are summarized at **Appendix V** and its location is shown on **Plans A-1 and A-2a**.

## 8. The Site and Its Surrounding Areas (Plans A-1 and A-2a and photos on Plans A-3 and A-4)

- 8.1 The Site is:
  - (a) within a vegetated slope and covered with dense shrubs and mature trees;
  - (b) within the ‘Village Environs’ (‘VE’) of Tai Po Tsai Village; and
  - (c) within the lower indirect water gathering ground (WGG) which covers a large part of the surrounding area.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and east are densely vegetated land with mature trees;
- (b) two existing village houses built before the gazette of the Tai Mong Tsai and Tsam Chuk Wan Development Permission Area plan are found to the northeast and southeast of the Site; and
- (c) to the west is part of the “V” zone of Tai Po Tsai Village.

## 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 NTEH/Small House  - Application site		100%  100%	The Site falls entirely within the “GB” zone.
2.	Within ‘VE’?  - Footprint of the NTEH/Small House  - Application site	100%  100%		<ul style="list-style-type: none"> <li>• The Site and the Small House footprint fall entirely within the ‘VE’ of Tai Po Tsai.</li> <li>• District Lands Officer/ Sai Kung, Lands Department (DLO/SK, LandsD) has no objection to the application.</li> </ul>
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> <ul style="list-style-type: none"> <li>• Land required to meet Small House demand: about 2.625 ha (or equivalent to 105 Small House sites). The outstanding Small House applications are 18<sup>1</sup> while the 10-year Small House demand forecast is 87.</li> </ul>

<sup>1</sup> Among the 18 outstanding Small House applications, 13 of them fall within the “V” zone and 5 of them are outside the “V” zone. None of the Small House applications obtained planning approval.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		<u>Land Available</u> • Land available to meet Small House demand: about 1.8 ha (or equivalent to 72 Small House sites) ( <b>Plan A-2b</b> )
4.	Compatible with the planning intention of “GB” zone?		✓	Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application.
5.	Compatible with surrounding area/ development?	✓		The surrounding areas are rural in character with mature trees and clusters of village houses ( <b>Plan A-3</b> ).
6.	Within Water Gathering Ground (WGG)?	✓		Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD) objects to the application. The Site is located within the lower indirect WGG. There is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. It is thus considered that compliance with the Interim Criteria Item (B) (i) cannot be established.  Director of Environmental Protection (DEP) does not support the application from water quality perspective. The proposed sewage treatment and disposal method is the same as the previous planning application No. A/SK-TMT/57. The proposed use of septic tank and soakaway system for treating wastewater is not acceptable within the lower indirect WGG without public sewerage connection available in the vicinity.
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire service installations and emergency vehicular access (EVA)?		✓	Director of Fire Services (D of FS) has no in-principle objection to the application. The applicant is reminded to observe the ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by Lands Department. Detailed

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				fire safety requirements will be formulated upon receipt of formal applications referred by Lands Department.
9.	Traffic Impact?		✓	Commissioner for Transport (C for T) has no comment on the application from traffic engineering perspective.
10.	Drainage Impact?		✓	Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD) advises that the proposed house is located in very close proximity of an existing streamcourse which is a key drainage to convey stormwater runoff from the upstream catchment. He has no in-principle objection to the application from a drainage maintenance viewpoint provided that (i) adequate stormwater drainage collection and disposal facilities in connection with the proposed developments to deal with the surface runoff of the captioned site or the same flowing on to the site from the adjacent areas without causing any adverse drainage impacts or nuisance to the adjoining areas; and (ii) all the proposed works including site formation works situated at 3m away from the top of the bank of the nearby steamcourse.
11.	Landscaping Impact?	✓		<p>Chief Town Planner/ Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has reservations on the application from landscape planning perspective. She advises that with reference to the aerial photograph in 2019, the Site is fully covered by vegetation and existing tree groups are observed along the perimeter of the Site. The Site is situated in an area of settled valleys landscape character dominated by dense woodland and some village houses. The proposed development is considered not entirely compatible with the landscape setting in proximity.</p> <p>Although the applicant states in the application that no tree felling would be involved in the proposed development, no information on existing trees and their</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>proposed treatments is provided in the application, the potential landscape impact arising from the proposed development to the existing landscape resources cannot be reasonably ascertained.</p> <p>Noting that no existing vehicular access to the Site is available, formation of temporary and/or permanent access road from Yan Yee Road to the Site may be required during the construction stage for delivery of building materials and machinery. The existing landscape resources would probably be affected if construction of the said access road is required, and such information, including the proposed size and alignment of the access road and the existing trees to be affected, should also be included in the application for review.</p> <p>With reference to the Landscape Plan, 62 nos. of trees are proposed to be planted at the northwestern portion and along the perimeter of the Site. However, information on the proposed tree location, size and plant spacing is not provided in the application. In view of the limited available space within the Site and there is existing vegetation in the surrounding, she has concern about the practicability of the proposed planting scheme as there is insufficient growing space for the proposed tree planting.</p> <p>There is concern that approval of the application would set an undesirable precedent to encourage other similar applications to the vegetated area of the "GB" zone. The cumulative effect of which would result in a general degradation of the landscape quality of the surrounding area and undermine the planning intention of the "GB" zone.</p>
12.	Geotechnical Impact?	✓		Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD) advises that the Site is situated adjacent to a natural drainage course and meets the Alert

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				Criteria for a Natural Terrain Hazard Study (NTHS). He has an in-principle objection to the proposed development, unless the applicant is prepared to undertake a NTHS.
13.	Local objection conveyed by District Officer/Sai Kung (DO/SK, HAD)?		✓	DO/SK, HAD has no comment on the application.

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

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

10.3 The following government departments have no comment on the application:

- (a) Chief Building Surveyor/New Territories East 2 & Rail, Buildings Department
- (b) Chief Engineer (Works), Home Affairs Department; and
- (c) Chief Highway Engineer/New Territories East, Highways Department.

## **11. Public Comments Received During Statutory Publication Period**

On 1.9.2020, the application was published for public inspection. During the first 3 weeks of the statutory public inspection period, which ended on 22.9.2020, six comments were received from a Sai Kung District Council member, Kadoorie Farm and Botanic Garden, Designing Hong Kong Limited, WWF-Hong Kong and two individuals. All commenters object to the application because the proposed development is not in line with the planning intention of the “GB” zoning; land is still available within the “V” zone of Tai Po Tsai for Small House development; approval of the application would set an undesirable precedent for other applications within the “GB” zone; the Site is currently cultivated land and the proposed development would generate adverse ecological and geotechnical impacts on its surroundings.

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

12.1 The application is for a proposed Small House development at the Site falling entirely within an area zoned “GB” on the approved Tai Mong Tsai and Tsam Chuk Wan OZP. 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 the “GB” zone. Although DAFC has no strong view on the application, whilst, there are no exceptional circumstances or strong planning grounds in the submission for a departure from the planning intention of the “GB” zone.

- 12.2 Regarding the Interim Criteria (**Appendix II**), according to DLO/SK, LandsD’s record, the total number of outstanding Small House applications for Tai Po Tsai Village is 18 while the 10-year Small House demand forecast is 87. Based on the latest estimate by the Planning Department, about 1.8 ha of land (equivalent to 72 Small House sites) are available within the “V” zone at the village. While land available within the “V” zone is insufficient to meet the future Small House demand, land is available within the “V” zone to meet the outstanding 18 Small House applications. The applicant claims that government land within the “V” zone is not suitable for development of Small House as it would involve extensive clearance of vegetation. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in recent years. 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. 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 infrastructure and services.
- 12.3 The application does not comply with the Interim Criteria as the Site falls within the Lower Indirect WGG where no public sewer is available. The applicant proposes to use sand as sewerage absorbent (**Drawing A-4**) but CE/Construction, WSD objects to the application in that there is no information in the application to indicate that the proposed house can be connected to the public sewerage system in the area. The wastewater generated from the proposed house will have potential to cause pollution to the WGG. DEP also does not support the application from water quality perspective in that the proposed use of septic tank and soakaway system for treating wastewater is not acceptable within the lower indirect WGG without public sewerage connection available in the vicinity. The applicant fails to demonstrate that the proposed development within WGG would not have adverse impact on water quality in the area. Furthermore, H(GEO), CEDD advises that the Site is situated adjacent to a natural drainage course and meets the Alert Criteria for a Natural Terrain Hazard Study (NTHS). He has an in-principle objection to the proposed development, unless the applicant is prepared to undertake a NTHS.
- 12.4 The Site is located on a vegetated slope surrounded by dense mature trees (**Plans A-3, A-4a and A-4b**). CTP/UD&L, PlanD notes that with reference to the aerial photograph in 2019, the Site is fully covered by vegetation and existing tree groups are observed along the perimeter of the Site. The Site is situated in an area of settled valleys landscape character dominated by dense woodland and some village houses. The proposed development is considered not entirely compatible with the landscape setting in proximity. Although the applicant states in the application that no tree felling would be involved in the proposed development, no information on existing trees and their proposed treatments is provided in the application, the potential landscape impact arising from the proposed development to the existing landscape resources cannot be reasonably ascertained. Moreover, the applicant proposes the planting of 62 trees at the northwestern portion and along the perimeter of the Site. However, information on the proposed tree location, size and plant spacing is not provided in the application. In view of the limited available space within the Site and there is existing vegetation in the surrounding, she has concern about the practicability of the proposed planting scheme as there is insufficient growing space for the proposed tree planting. As such, CTP/UD&L, PlanD has reservations on the

application from landscape planning perspective. The proposed development is not in line with TPB-PG No. 10 in that it would involve vegetation clearance and adverse landscape impact is anticipated. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the Site and surrounding areas.

- 12.5 The Site is the subject of two previous applications for the same use rejected by the Committee on 10.6.2016 and 23.3.2018 respectively mainly on grounds that the proposed development was not in line with the planning intention of “GB” zone and not in line with the Interim Criteria and TPB PG-No. 10. Since the rejection of the previous applications, there is no change in planning circumstances. In addition, there is one similar application in the same “GB” zone which was also rejected by the Committee on 23.12.2011 with similar reasons. The approval of the application will set an undesirable precedent for other similar applications in this “GB” zone in the future. The cumulative effect of approving such application will result in a general degradation of the environment and bring about adverse landscape impact and impact on water quality in the area.
- 12.6 Regarding the public comments objecting to the application, the assessments in paragraphs 12.1 to 12.5 are relevant.

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

- 13.1 Based on the assessment made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed Small House 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 this zone. There are no exceptional circumstances or strong planning grounds in the submission for a departure from the planning intention;
  - (b) land is still available within the “V” zone of Tai Po Tsai where land 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 infrastructures and services;
  - (c) the proposed development is not in line with the Interim Criteria for Assessing Planning Application for New Territories Exempted House/Small House development in the New Territories in that the Site falls within Lower Indirect Water Gathering Ground (WGG) and there is no public sewerage connection available in the vicinity. The applicant fails to demonstrate that the proposed development located within WGG would not have adverse impact on water quality in the area;
  - (d) the proposed development is not in line with TPB-PG No. 10 in that it would involve vegetation clearance and adverse landscape impact is anticipated. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the Site and surrounding areas; and

- (e) approval of the application will set an undesirable precedent for other similar applications within the “GB” zone. The cumulative effect of approving such applications will result in a general degradation of the environment and bring about cumulative adverse impact on the water quality and landscape of the area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 23.10.2024, 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 approval conditions and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of a landscaping and tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the provision of septic tank, as proposed by the applicant, at a location to the satisfaction of Director of Lands or of the Town Planning Board; and
- (d) the submission of a Natural Terrain Hazard Study and implementation of the mitigation measures recommended therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix VIII**.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.
- 14.3 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.

**15. Attachments**

<b>Appendix I</b>	Application form dated on 25.8.2020
<b>Appendix II</b>	Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
<b>Appendix III</b>	Town Planning Board Guidelines for Application for Development

	within "Green Belt" Zone under Section 16 of the Town Planning Ordinance
<b>Appendix IV</b>	Previous applications
<b>Appendix V</b>	Similar applications for Small Houses
<b>Appendix VI</b>	Relevant government departments' comments on the application
<b>Appendix VII</b>	Public comments received
<b>Appendix VIII</b>	Advisory clauses
<b>Drawing A-1</b>	Site plan submitted by the applicant
<b>Drawing A-2</b>	Tree compensation plan submitted by the applicant
<b>Drawing A-3</b>	Proposed sewerage plan submitted by the applicant
<b>Drawing A-4</b>	Proposed septic tank design plan submitted by the applicant
<b>Plan A-1</b>	Location Plan
<b>Plans A-2a and A-2b</b>	Site Plans
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2020**