

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/TP/665 and 666

<u>Applicants</u>	Mr. MAH Chen Ying Mr. MAH Chen Sing represented by Mr. MAH Chen Ying	(Application No. A/TP/665) (Application No. A/TP/666)
<u>Sites</u>	Lot 187 S.B Lot 187 S.C	(Application No. A/TP/665) (Application No. A/TP/666)
	Both in D.D. 21, San Uk Ka Village, Tai Po, New Territories	
<u>Site Areas</u>	About 202.1 m ² About 164 m ²	(Application No. A/TP/665) (Application No. A/TP/666)
<u>Lease</u>	Block Government Lease (demised for agricultural use)	
<u>Plan</u>	Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28	
<u>Zonings</u>	<u>“Village Type Development” (“V”)</u> 29% 42%	<u>“Green Belt” (“GB”)</u> 71% 58% (Application No. A/TP/665) (Application No. A/TP/666)
<u>Applications</u>	Proposed House (New Territories Exempted House (NTEH) - Small House) at each of the application sites	

1. The Proposal

- 1.1 The applicants, indigenous villagers of Wun Yiu Village of Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village¹, seek planning permission to build an NTEH (Small House) on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH only)’ in the “GB” zone requires planning permission from the Town Planning Board (the Board).

¹ As advised by DLO/TP, LandsD, the applicants’ eligibility of Small House grant has yet to be ascertained.

1.2 Details of each of the proposed Small House developments are as follows:

Total floor area	:	195.09m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 The uncovered area of each of the Sites are proposed to be used as garden. Layout of each of the proposed Small Houses (including septic tank) are shown on **Drawings A-1** and **A-2**.

1.4 In support of the applications, the applicants have submitted the application forms and attachments on 29.5.2019 (**Appendices Ia and Ib**).

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the applications stated in Part 9 of the application forms at **Appendices Ia and Ib** are summarized as follows:

- (a) The applicants are indigenous villagers of Sheung Wun Yiu, Tai Po. As more than 50% of the proposed Small House footprints fall within the “V” zone, the applications are in compliance with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories;
- (b) the Board has approved over 85 similar applications for Small House development in the same “GB” zone in San Uk Ka Village;
- (c) the Sites are inherited from their ancestors. As land suitable for Small House developments within the “V” zone of San Uk Ka Village is limited, it is nearly impossible to acquire land such that the proposed Small House footprint is entirely within the “V” zone;
- (d) there is no stream course within 30 meters of the Sites; and
- (e) the proposed developments are compatible with the environment of the adjacent villages and will not cause any adverse impact, including visual impact, on the surroundings.

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

The applicants are the sole “current land owners”. 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 and had

been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' is relevant to this application. The relevant assessment criteria are summarized below:

- (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 grounds. 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 NTEH with satisfactory sewage disposal facilities and access arrangements may be approved if the application site is 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 areas. 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, road 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; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Application

There is no previous application at the Sites.

7. Similar Applications

- 7.1 There are 42 similar applications (No. A/TP/266, 274, 278, 282, 286, 287, 300, 302, 303, 320, 353, 363, 380, 424, 425, 464 to 477, 525, 553 to 556, 561, 562, 566, 570 to 572, 641 and 662) for Small House development in the vicinity of the Sites and within the same "GB" zone since the first promulgation of the

Interim Criteria on 24.11.2000 (**Plan A-1**), of which 40 were approved and two were rejected.

- 7.2 Between 2000 and March 2015, before the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015, a total of 39 applications were approved with conditions and one application was rejected by the Committee. The 39 applications were approved mainly on the grounds that the proposed developments were in line with the Interim Criteria in that more than 50% of the proposed Small House footprint was located within the 'VE'/'V' zone; there was a general shortage of land in the concerned "V" zone to meet the demand for Small House development at the time of consideration; and/or the application site was the subject of previously approved application. For the rejected application (No. A/TP/562), it was rejected in 2014 mainly on considerations of being not in line with the planning intention of the "GB" zone; and not complying with TPB-PG No.10 and the Interim Criteria in that the proposed development would involve clearance of existing natural vegetation and affect the stability of the adjacent slope, which would cause adverse landscape impact on the surrounding areas and subject to adverse geotechnical impact.
- 7.3 After the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015, there are two similar applications in the vicinity of the Sites and within the same "GB" zone. Application No. A/TP/641 was approved on 18.5.2018 mainly on the grounds that the proposed development was generally in line with the TPB-PG No.10 in that it would not cause adverse geotechnical impact; and was in close proximity to existing Small Houses and a cluster of approved Small House applications. For the other application (No. A/TP/662), it was rejected on 3.5.2019 mainly for the same reasons of Application No. A/TP/562 and that land was still available within the "V" zone of the villages concerned which was primarily intended for Small House development.
- 7.4 Details of the above similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

8 The Sites and Their Surrounding Areas (Plans A-1, A-2a and photos on Plans A-3, A-4a and 4b)

- 8.1 The Sites are:
- (a) flat, currently vacant and covered by grasses and groundcovers;
 - (b) outside the village 'environs' ('VE') of San Uk Ka Village; and
 - (c) located at the south-eastern fringe of San Uk Ka Village.
- 8.2 The surrounding areas are predominantly rural in character with a mix of village houses, active and fallow agricultural land and scattered tree groups. The village cluster of San Uk Ka is situated about 5 to 10m to the northwest.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “V” zone is to designate both the existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for the 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.

10. Comments from Relevant Government Departments

10.1 The applications have 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.	<p>Within “V” zone?</p> <p><u>A/TP/665</u></p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site <p><u>A/TP/666</u></p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site 	<p>57%</p> <p>29%</p> <p>61%</p> <p>42%</p>	<p>43%</p> <p>71%</p> <p>39%</p> <p>58%</p>	<ul style="list-style-type: none"> - The remaining portion of the Sites and footprint of the proposed Small Houses fall within “GB” zone. - More than 50% of the footprint of the proposed Small Houses fall within the “V” zone. The District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the applications.
2.	<p>Within ‘VE’?</p> <p><u>A/TP/665 & 666</u></p> <ul style="list-style-type: none"> - Footprint of the Small House - Application site 	<p>-</p> <p>-</p>	<p>100%</p> <p>100%</p>	<ul style="list-style-type: none"> - The Sites and the footprint of the proposed Small Houses fall outside the ‘VE’ of any recognised village.
3.	<p>Sufficient land in “V” zone to meet Small House demand (outstanding Small House applications plus 10-year Small House demand)?</p>		<p>✓</p>	<p><u>Land Required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu: about 7.88 ha (equivalent to 315 Small House sites). The outstanding Small

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		House applications are 41 ² while the 10-year Small House demand forecast for the same villages is 274. <u>Land Available</u> - Land available to meet Small House demand within the “V” zone of the villages concerned: about 2.84 ha (equivalent to 113 Small House sites) (Plan A-2b).
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within the “GB” zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the applications as the Sites are overgrown with common shrub and herbs.
5.	Compatible with surrounding area/ development?	✓		- The surrounding area is rural in landscape character occupied by scattered tree groups, village houses and farmland.
6.	Within Water Gathering Ground (WGG)?		✓	
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and emergency vehicular access (EVA)?		✓	- The Director of Fire Services (D of FS) has no comment on the applications.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has general reservation

² Among the 41 outstanding Small House applications, 21 of them fall within the “V” zone and 20 straddle or outside the “V” zone. For those 20 applications straddling or being outside the “V” zone, six of them have obtained valid planning approval from the Board.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				on the applications but considers the applications only involving development of Small Houses can be tolerated on traffic grounds.
10.	Drainage impact?	✓		<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the applications. - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> - The Director of Environmental Protection (DEP) has no objection to the applications.
12.	Landscape impact?		✓	<ul style="list-style-type: none"> - The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has no objection to the applications from the landscape planning point of view as significant adverse impact on landscape resources within the Sites is not anticipated. - Should the Board approve the applications, the standard condition on landscape proposal is not recommended since the Sites are not bounded by prominent public frontage, its effect on public realm quality enhancement is not apparent.
13.	Geotechnical impact		✓	
14.	Local objections conveyed by DO?		✓	

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

- (a) District Lands Officer/Tai Po, Lands Department ;
- (b) Commissioner for Transport;
- (c) Director of Environmental Protection;
- (d) Chief Town Planner/Urban Design and Landscape, Planning Department;
- (e) Chief Engineer/Mainland North, Drainage Services Department;
- (f) Chief Engineer/Construction, Water Supplies Department;
- (g) Director of Agriculture, Fisheries and Conservation; and
- (h) Director of Fire Services.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (d) Director of Electrical and Mechanical Service; and
- (e) District Officer (Tai Po), Home Affairs Department.

11. Public Comments Received During Statutory Publication Period (Appendix V)

On 4.6.2019, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, two public comments from The Hong Kong Bird Watching Society and an individual were received for each of the applications raising objection mainly on the grounds of being not in line with the planning intention of “GB” zone; development in “GB” zone and the use of septic tank will have adverse impacts on the environment; being outside the village cluster; and setting of undesirable precedent.

12. Planning Considerations and Assessments

Planning Intention

12.1 Each of the applications is for a Small House development on an area partly zoned “V” and partly zoned “GB” on the 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 in the “GB” zone.

TPB PG-No.10

12.2 Although the proposed developments are not in line with the planning intention of the “GB” zone, they generally comply with the assessment criterion of the Town Planning Board Guidelines for Application for Development within “GB” zone under Section 16 of the Town Planning

Ordinance (TPB PG-No. 10) set out in paragraph 5(c) above in that the proposed NTEH developments are in close proximity to existing villages and in keeping with the surrounding uses; and are to meet the demand from indigenous villagers. Moreover, DEP has no adverse comment on the proposed sewage treatment.

- 12.3 The Sites, located on the southern fringe of San Uk Ka, are currently vacant and covered by grasses and groundcovers (**Plan A-2a**). DAFC has no strong view on the applications as the Sites are overgrown with common shrub and herbs. The village cluster of San Uk Ka is located about 5 to 10m to the northwest. The proposed developments are not incompatible with the existing landscape setting which is rural in character occupied by scattered tree groups, village houses and farmland. CTP/UD&L of PlanD has no objection to the applications from landscape planning point of view as significant adverse impact on landscape resources within the Sites is not anticipated.
- 12.4 C for T has general reservation on the applications but considers that the applications involving development of two Small Houses only can be tolerated on traffic grounds. Other relevant Government departments including CE/MN of DSD, CE/C of WSD, CHE/NTE of HyD and D of FS have no objection to or no adverse comment on the applications. As the proposed developments are not expected to have significant adverse environmental, traffic, geotechnical, drainage and sewage impacts, the applications generally meet the TPB-PG No. 10.

Interim Criteria

- 12.5 According to the DLO/TP, LandsD's records, the total number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu is 41 while the 10-year Small House demand forecast is 274. Based on the latest estimate by the Planning Department, about 2.84 ha of land (equivalent to about 113 Small House sites) are available within the "V" zone of the concerned villages. As more than 50% of the proposed Small House footprints fall within the "V" zone, DLO/TP, LandsD has no objection to the applications.
- 12.6 Whilst land available within the "V" zone for Small House development (about 2.84 ha or equivalent to about 113 Small House sites) (**Plan A-2b**) is insufficient to fully meet the future Small House demand, it is capable to meet the 41 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development since August 2015. 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. In this regard, 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.

Similar Applications

- 12.7 As shown on **Plan A-2a**, there are seven similar applications for Small House development in close proximity to the Sites and all of them were approved before the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015. In particular, Applications No. A/TP/554 to 556 involving three Small House developments to the immediate north of the Sites were approved in 2014 mainly on the grounds that the proposed developments were generally in compliance with the Interim Criteria in that more than 50% of the proposed Small House footprints fell within the 'VE'; there was a general shortage of land within "V" zone in meeting the Small House demand at the time of consideration; the proposed Small House developments would unlikely have significant adverse impacts on the surrounding areas; and the proposed developments were generally in line with the TPB PG-No. 10. The circumstances of those approved similar applications are not relevant to the subject applications.

Public Comments

- 12.8 Regarding the public comments objecting to the applications on the grounds as detailed in paragraph 11, Government departments' comments and the planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support each of the applications for the following reasons:
- (a) the proposed development is not in line with the planning intention of "GB" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission to justify a departure from the planning intention; and
 - (b) land is still available within the "V" zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.
- 13.2 Alternatively, should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until 19.7.2023, 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 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**.

14. Decision Sought

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 14.2 Should the Committee decide to reject the applications, 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 applications, Members are invited to consider the approval conditions and advisory clauses to be attached to the permissions, and the date when the validity of the permissions should expire.

15. Attachments

Appendices Ia and Ib	Application forms and attachments received on 29.5.2019
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
Appendix III	Similar applications
Appendix IV	Detailed comments from relevant Government departments
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1 to A-2	Layout plans submitted by the applicants
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within “V” zone
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

Relevant Revised Interim Criteria for Consideration of
Application for NTEH/Small House in New Territories
(promulgated on 7.9.2007)

- (a) sympathetic consideration may be given if not less than 50% of the proposed NTEH/Small House footprint falls within the village 'environs' ('VE') of a recognized village and there is a general shortage of land in meeting the demand for Small House development in the "Village Type Development" ("V") zone of the village;
- (b) if more than 50% of the proposed NTEH/Small House footprint is located outside the 'VE', favourable consideration could be given if not less than 50% of the proposed NTEH/Small House footprint falls within the "V" zone, provided that there is a general shortage of land in meeting the demand for Small House development in the "V" zone and the other criteria can be satisfied;
- (c) development of NTEH/Small House with more than 50% of the footprint outside both the 'VE' and the "V" zone would normally not be approved unless under very exceptional circumstances (e.g. the application site has a building status under the lease, or approving the application could help achieve certain planning objectives such as phasing out of obnoxious but legal existing uses);
- (d) application for NTEH/Small House with previous planning permission lapsed will be considered on its own merits. In general, proposed development which is not in line with the criteria would normally not be allowed. However, sympathetic consideration may be given if there are specific circumstances to justify the cases, such as the site is an infill site among existing NTEHs/Small Houses, the processing of the Small House grant is already at an advance stage;
- (e) an application site involves more than one NTEH/Small House, application of the above criteria would be on individual NTEH/Small House basis;
- (f) the proposed development should not frustrate the planning intention of the particular zone in which the application site is located;
- (g) the proposed development should be compatible in terms of land use, scale, design and layout, with the surrounding area/development;
- (h) the proposed development should not encroach onto the planned road network and should not cause adverse traffic, environmental, landscape, drainage, sewerage and geotechnical impacts on the surrounding areas. Any such potential impacts should be mitigated to the satisfaction of relevant Government departments;
- (i) the proposed development, if located within water gathering grounds, should be able to be connected to existing or planned sewerage system in the area except under very special circumstances (e.g. the application site has a building status under the lease or the applicant can demonstrate that the water quality within water gathering grounds will not be affected by the proposed development^);
- (j) the provision of fire service installations and emergency vehicular access, if required, should be appropriate with the scale of the development and in compliance with

relevant standards; and

- (k) all other statutory or non-statutory requirements of relevant Government departments must be met. Depending on the specific land use zoning of the application site, other Town Planning Board guidelines should be observed, as appropriate.

^i.e. the applicant can demonstrate that effluent discharge from the proposed development will be in compliance with the effluent standards as stipulated in the Water Pollution Control Ordinance Technical Memorandum.

Similar Applications

Approved Applications

Application No.	Proposed Development	Date of Consideration	Approval Conditions
A/TP/266	Proposed House (Small House)	8/12/2000	A1
A/TP/274	Proposed New Territories Exempted House (NTEH) (Small House)	20/07/2001	A1-A3
A/TP/278	Proposed Seven Houses (Small House)	21/09/2001	A1-A2
A/TP/282	Proposed Five Houses (Small House)	16/11/2001	A1-A3
A/TP/286	Proposed Six Houses (Small House)	08/02/2002	A1-A3
A/TP/287	Proposed Two Houses (Small House)	01/03/2002	A1-A2
A/TP/300	Proposed Eight Houses (Small House)	11/10/2002	A1, A4
A/TP/302	Proposed NTEH (Small House)	25/10/2002	A1-A2
A/TP/303	Proposed NTEH (Small House)	25/10/2002	A1-A2
A/TP/320	Proposed NTEH (Small House)	09/01/2004	A1-A2
A/TP/353	Proposed 2 NTEHs (Small House)	29/07/2005	A1-A2
A/TP/363	Proposed NTEH (Small House)	13/01/2006	A1, A5
A/TP/380	Proposed 3 NTEHs (Small House)	20/10/2006	A1, A2, A5, A6
A/TP/424	Proposed NTEH (Small House)	27/03/2009	A4, A6
A/TP/425	Proposed NTEH (Small House)	27/03/2009	A4, A6
A/TP/464	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/465	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/466	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/467	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/468	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6

A/TP/469	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/470	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/471	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/472	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/473	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/474	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/475	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/476	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/477	Proposed NTEH (Small House)	23/12/2010	A1, A2, A6
A/TP/525	Proposed 2 NTEHs (Small Houses)	5/10/2012	A1, A2, A6
A/TP/553	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/554	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/555	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/556	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/561	Proposed NTEH (Small House)	17/10/2014	A1, A2, A7
A/TP/566	Proposed NTEH (Small House)	14/11/2014	A1, A2, A7
A/TP/570	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7
A/TP/571	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7, A8
A/TP/572	Proposed NTEH (Small House)	13/03/2015	A1, A2, A7, A8
A/TP/641	Proposed NTEH (Small House)	18/05/2018	A1, A7

Approval Conditions

- A1. The submission and/or provision/implementation of drainage facilities/ proposal.
- A2. The submission and implementation of landscaping proposals.
- A3. The provision of fire service installations.

- A4. The submission and implementation of landscape and tree preservation proposals (including a site formation plan, prior to commencement of site formation works).
- A5. The submission of a slope assessment and the implementation of stabilization works identified therein.
- A6. The provision for fire-fighting access, water supplies and fire service installations.
- A7. 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.
- A8. The submission of a geotechnical investigation report and implementation of the necessary geotechnical remedial works.

Rejected Applications

Application No.	Proposed Development	Date of Consideration	Rejection Reasons
A/TP/562	Proposed NTEH (Small House)	17/10/2014	R1-R3
A/TP/662	Proposed NTEH (Small House)	3/5/2019	R1-R4

Rejection Reasons

- R1. The proposed development was not in line with the planning intention of the "Green Belt" ("GB") zoning for the area which was to define the limits of urban development areas by natural features so as to contain urban sprawl and to provide passive recreational outlets. There was a general presumption against development within the "GB" zone. There was no strong justification in the current submission for a departure from the planning intention.
- R2. The application did not comply with the Town Planning Board Guidelines for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape, and the applicant failed to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas and that the stability of the adjacent slope would not be adversely affected.
- R3. The application did not comply with the Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in the New Territories in that the proposed development would cause adverse landscape impact on the surrounding areas and be subject to adverse geotechnical impact.
- R4. Land was still available within the "Village Type Development" ("V") zone of San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the "V" zone for more orderly development pattern, efficient use of land and provision of infrastructure and services.

Detailed Comments from Relevant Government Departments

1. Land Administration

Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the applications;
- (b) the applicants are indigenous villagers (IVs) of Wun Yiu Village of Tai Po as confirmed by the respective Indigenous Inhabitant Representative (IIR). However, their eligibility of Small House grant has yet to be ascertained;
- (c) the subject lots are held under Block Government Lease (demised for agricultural use). Small House applications submitted by the applicants for the application sites (the Sites) are still under processing;
- (d) the Sites fall entirely outside the village ‘environs’ (‘VE’) of San Uk Ka and are not covered by any Modification of Tenancy or Building Licence;
- (e) more than 50% of the Small House footprints fall within the “Village Type Development” (“V”) zone;
- (f) the number of outstanding Small House applications and the number of 10-year Small House demand for the villages concerned are as follows:

<u>Village</u>	<u>No. of outstanding Small House applications</u>	<u>No. of 10-year Small House demand*</u>
San Uk Ka	17	35
Cheung Uk Tei	8	39
Sheung Wun Yiu	14	200
Ha Wun Yiu	2	Nil

(*The figure of 10-year Small House demand were estimated and provided by the IIRs of the concerned villages and the information so obtained is not verified by LandsD.)

- (g) should the applications be approved by the Town Planning Board (the Board), LandsD will process the Small House applications. However, there is no guarantee at this stage that the Small House applications would be approved. If Small House applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approvals will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small Houses concerned or approval of the Emergency Vehicular Accesses thereto.

2. **Traffic**

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

- (a) in general, he has reservation on the applications. Such type of development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed developments is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial;
- (b) notwithstanding the above, he considers that the applications only involving development of two Small Houses can be tolerated on traffic grounds; and
- (c) the existing village access on and near the Sites is not under Transport Department’s management. It is suggested that the land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

3. **Environment**

Comments of the Director of Environmental Protection (DEP):

- (a) no objection to the applications; and
- (b) if the applications are approved, the applicants should be advised that the septic tank and soakaway system is an 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 Authorized Person.

4. **Landscape**

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

- (a) no objection to the applications from the landscape planning point of view;
- (b) the Sites are situated in an area of rural landscape character comprising scattered tree groups and village houses. The proposed developments are considered not incompatible with the surrounding environment;
- (c) the Sites are vacant and covered with grasses and groundcovers. One existing *Citrus Limonia* (黎檬) in fair condition entwined with climbers is found within the site boundary of Application No. A/TP/665. Significant adverse impact arising from the proposed developments on landscape resources within the Sites is not anticipated; and
- (d) in view of that the Sites are not bounded by prominent public frontage, should the applications be approved by the Board, it is considered not necessary to

impose any landscape condition as its effect on public realm quality enhancement is not apparent.

5. Drainage and Sewerage

Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no in-principle objection to the applications from public drainage viewpoint;
- (b) there is no public drain maintained by DSD in the vicinity of the Sites. Should the applications be approved by the Board, a condition should be included to request the applicants to submit and implement the drainage proposal for the Sites to the satisfaction of the Director of Drainage Services to ensure that they will not cause adverse drainage impact to the surrounding areas and the residential premises located at their downhill side;
- (c) the proposed Small Houses should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and their uphill overland flow. The applicants/owners are also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants/owners shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) the applicants should design the drainage proposal based on actual site condition for DSD's comment/agreement. In the design, the applicants should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicants/owners should ensure no adverse drainage and geotechnical impact will be caused to the area due to the proposed developments. The proposed developments, located on unpaved ground and slope area, will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk to surrounding areas and the residential premises located at their downhill side. The applicants should take this into account when preparing the drainage proposal. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed developments and the nearest extremity of the existing streamcourse/ pond/ river/ the top of embankment should be maintained;
- (e) public sewers are available in the vicinity of the proposed developments but connection to which might not be feasible. Views and comments from the DEP should be sought regarding the sewage disposal arrangement of the proposed developments;
- (f) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owners at their expense. For works to be undertaken outside the lot boundaries, prior consent and agreement from DLO/TP of LandsD and/or relevant private lot owner(s) should be sought;
- (g) the site formation levels of the proposed developments shall not cause flooding

risk to nearby area/premises. Comments/agreement from DLO/TP of LandsD for the finished site formation level should be sought; and

- (h) the applicants/owners should take all precautionary measures to prevent any disturbance, damage and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the lots. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom.

6. Agriculture

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

- has no strong view on the applications as the Sites are overgrown with common shrub and herbs.

7. Fire Safety

Comments of the Director of Fire Services (D of FS):

- (a) no comment on the applications; and
- (b) the applicants are advised to observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by the LandsD.

8. Water Supply

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

- (a) no objection to the applications; and
- (b) for provision of water supply to the developments, the applicants may need to extend their inside services to the nearest suitable Government water mains for connection. The applicants shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

9. Demand and Supply of Small House Sites

According to the DLO/TP, LandsD's record, the total number of outstanding Small House applications for San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu is 41 while the 10-year Small House demand forecast for the same villages is 274. Based on the latest estimate by the PlanD, about 2.84 ha of land (equivalent to about 113 Small House sites) are available within the "V" zone of concerned villages. Therefore, the land available cannot fully meet the future demand of 315 Small Houses (equivalent to 7.88 ha of land).

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Office/Tai Po, Lands Department (DLO/TP, LandsD) that if Small House application is approved by LandsD acting in the capacity as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of a right of way to the Small House concerned or approval of the Emergency Vehicular Access thereto;
- (b) to note the comments of the Director of Environmental Protection (DEP) that septic tank and soakaway system is an 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 Authorized Person;
- (c) to note the comments of the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) that:
 - (i) there is no public drain maintained by DSD in the vicinity of the Site. The proposed Small House should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and its uphill overland flow. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
 - (ii) the applicant should design the drainage proposal based on actual site condition for DSD’s comment/agreement. In the design, the applicant should consider the workability, the drainage impact to the surrounding environment and seek comments from all concerned parties/departments if necessary. The applicant/owner should ensure no adverse drainage and geotechnical impact will be caused to the area arising from the proposed development. The proposed development, located on unpaved ground and slope area, will increase the impervious area resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk to surrounding areas and the residential premises located at its downhill side. The applicant should take this into account when preparing the drainage proposal. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected. In particular, a minimum clearance of 3m between the proposed development and the nearest extremity of the existing streamcourse/pond/river/the top of embankment should be maintained;
 - (iii) public sewers are available in the vicinity of the proposed development but connection to which might not be feasible;
 - (iv) the proposed drainage works, whether within or outside the lot boundary, should be constructed and maintained by the lot owner at his expense. For works to be undertaken outside the lot boundary, prior consent and agreement from DLO/TP of LandsD and/or relevant private lot owner(s) should be sought;

- (v) the site formation levels of the proposed development shall not cause flooding risk to nearby area/premises. Comments/agreement from DLO/TP of LandsD for the finished site formation level should be sought; and
- (vi) the applicant/owner should take all precautionary measures to prevent any disturbance, damage and pollution from the development to any parts of the existing drainage facilities in the vicinity of the lot. In the event of any damage to the existing drainage facilities, the lot owner/developer would be held responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom;
- (d) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that the applicant may need to extend the inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standard;
- (e) to note the comments of the Director of Fire Services (D of FS) that the applicant should observe 'New Territories Exempted Houses – A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD;
- (f) to note the comments of the Commissioner for Transport (C for T) that the existing village access on and near the Site is not under Transport Department's management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes; and
- (g) to note that the permission is only given to the development under application. If provision of an access road is required for the proposed development, the applicant should ensure that such access road (including any necessary filling/excavation of land) complies with the provisions of the relevant statutory plan and obtain planning permission from the Town Planning Board where required before carrying out the road works.