

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

**APPLICATION NO. A/TP/671**

- Applicant** : Mr. MAK Siu Hung represented by Mr. HUNG Shu Ping
- Site** : Lot 80 S.A in D.D.21, San Uk Ka Village, Tai Po, N.T.
- Site Area** : About 108.5m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
- 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 Pan Chung Village<sup>1</sup> of Tai Po as confirmed by the Indigenous Inhabitant Representative (IIR) of the concerned village, seeks planning permission to build an NTEH (Small House) on the application site (the Site) (**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).

1.2 Details of the proposed Small House development are as follows:

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

1.3 The applicant indicated that the uncovered area of the Site will be for garden use. Layout of the proposed Small House development with a septic tank is shown on **Drawing A-1**.

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<sup>1</sup> District Lands Officer/Tai Po of Lands Department advises that the applicant’s eligibility of Small House grant has yet to be ascertained.

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

- (a) Application form and attachments received on **(Appendix I)** 8.4.2020
- (b) Supplementary information to the application form **(Appendix Ia)** received on 14.4.2020
- (c) Further information (FI) received on 6.5.2020 **(Appendix Ib)** providing a Geotechnical Planning Review Report (GPRR) (*accepted but not exempted from publication and recounting requirements*)

## **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 and FI at **Appendices I and Ib**. They can be summarised as follows:

- (a) the applicant is an indigenous villager of Pan Chung Village in Tai Po and is unable to acquire suitable land in that village for the proposed Small House development;
- (b) the Site is located within the village ‘environs’ (‘VE’) of San Uk Ka Village. There are many existing Small Houses in the vicinity of the Site within the same “GB” zone and no more suitable private land for development in the surrounding area;
- (c) there is a slope within 10m of the Site and the applicant has submitted a GPRR in support of the application. To minimise the scale of site formation and impact to the existing slope, the platform of the proposed Small House development will be formed at 55 mPD, which is the average level in the area;
- (d) the applicant undertakes to submit a drainage proposal for the relevant department’s approval. A landscaping proposal will also be submitted if such is required under approval condition; and
- (e) the applicant undertakes not to commence any works on the Site prior to obtaining approval letter and relevant Certificates of Exemption from the Lands Department.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. 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 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 summarised 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;
- (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 Site.

## 7. Similar Applications

- 7.1 There are 44 similar applications in the vicinity of the Site and within the same “GB” zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**), of which 41 were approved and three were rejected.
- 7.2 A total of 39 applications were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 2000 and 2015 before the Board’s adoption of a more cautious approach in approving applications for Small House development in August 2015. These 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’/ “Village Type Development” (“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. Applications No. A/TP/571 and 572 were also approved for the reasons of being in close proximity of existing Small Houses and a cluster of approved Small House applications; having no significant impact on the existing landscape resources in the area; and no encroachment onto the wooded slope of the “GB” zone.
- 7.3 There are two applications (No. A/TP/562 and 641) covering the same site. Application No. A/TP/562 was rejected by the Committee in 2014 mainly on considerations of being not in line with the planning intention of the “GB” zone; and not complying with the Interim Criteria and the TPB-PG No.10 in that the proposed development would involve clearance of existing natural vegetation and cause adverse landscape impact on the surrounding area; and would affect the stability of the adjacent slope. Subsequently, the same applicant submitted another application (No. A/TP/641) with the site area and disposition of the proposed Small House slightly amended. It was also supplemented with a GPRR to address the concerns on slope stability. This application was approved in 2018 mainly on the grounds that the proposed development would not cause adverse geotechnical impact; and was in close proximity of existing Small Houses and a cluster of approved Small House applications. For Application No. A/TP/662, which was situated to the immediate east of No. A/TP/641, was approved by the Board upon review on 22.5.2020 mainly for the reasons that it would not cause adverse geotechnical impact; and the application site was bounded by existing clusters of village houses and approved Small House applications.
- 7.4 For the remaining two rejected applications (No. A/TP/665 and 666), they were rejected by the Board on review on 10.1.2020 mainly for the reasons that the proposed development was not in line with the planning intention of the “GB” zone; and land was still available within the concerned “V” zone for Small House development.
- 7.5 Details of the above similar applications are summarised at **Appendix III** and their locations are shown on **Plans A-1** and **A-2a**.

**8. The Site and Its Surrounding Area (Plans A-1, A-2a and photos on Plans A-3a and A-4a to 4b)**

8.1 The Site is:

- (a) vacant and partly covered with grasses and groundcovers;
- (b) located at the bottom of a natural slope with vegetation on the slope surface; and
- (c) located at the south-western fringe of San Uk Ka Village.

8.2 The surrounding areas are predominantly rural in character occupied by clusters of village houses and tree groups. To the immediate south-west is a vegetated natural slope with densely vegetated woodland on the uphill. Existing village houses and a number of approved Small House applications can also be found in the vicinity of the Site.

**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 Small House - Application site	- -	100% 100%	- The Site and the Small House footprint fall entirely within the “GB” zone.
2.	Within ‘VE’? - Footprint of the Small House - Application site	100% 100%	- -	- The Site and the Small House footprint fall entirely within ‘VE’ of San Uk Ka. - District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
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> - Land required to meet Small House demand in San Uk Ka, Cheung Uk Tei, Sheung Wun Yiu and Ha Wun Yiu: about 8.4 ha (equivalent to 336 Small House sites). The outstanding Small House applications are 39 <sup>2</sup> while the 10-year Small House demand forecast for the same villages is 297.  <u>Land Available</u> - Land available to meet the Small House demand within the “V” zone of the villages concerned: about 2.34 ha (or equivalent to 93 Small House sites) ( <b>Plan A-2b</b> ).
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		
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 application provided that the associated site formation works and slope stabilisation works would not affect existing trees on government land within the “GB” zone.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are predominantly rural in character mainly occupied by clusters of village houses and tree groups.
6.	Within Water Gathering Ground ?		✓	

<sup>2</sup> Among the 39 outstanding Small House applications, 19 of them fall within the “V” zone and 20 straddle or fall outside the “V” zone. For those 20 applications straddling or outside the “V” zone, 6 of them have obtained valid planning approval from the Board.

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 in-principle objection to the application.
9.	Traffic impact?	✓		- The Commissioner for Transport (C for T) has general reservation on the application but considers the application only involving development of one Small House only can be tolerated on traffic grounds.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no in-principle objection to the application from public drainage viewpoint.  - Approval condition on submission and implementation of drainage proposal is required.
11.	Sewerage impact?		✓	- The Director of Environmental Protection (DEP) has no objection to the application.
12.	Landscape impact?	✓		- The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has some reservations on the application from landscape planning point of view as the proposed development would involve site formation works, further vegetation clearance and adverse landscape impact to the surroundings are anticipated.  - If the application is approved, it would encourage extension of village cluster resulting in further

				encroachment onto the existing woodland. The cumulative impact of such approval would further degrade the landscape quality and environment of the “GB” zone.
13.	Geotechnical impact?		✓	- Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO, CEDD) has no adverse geotechnical comment on the GPRR and has no in-principle objection to the application.
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) Director of Agriculture, Fisheries and Conservation;
- (g) Director of Fire Services;
- (h) Chief Engineer/Construction, Water Supplies Department; and
- (i) Head of Geotechnical Engineering Office, Civil Engineering and Development Department.

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

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

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

On 17.4.2020 and 12.5.2020, the application and FI were published for public inspection. During the statutory public inspection periods, seven public comments were received. Six of them were received from Kadoorie Farm and Botanic Garden, World Wide Fund For Nature Hong Kong, Designing Hong Kong, The Hong Kong Bird



Watching Society (submitted twice) and an individual raising objection to the application mainly on the grounds of not in line with the planning intention of “GB” zone; adverse landscape, drainage and sewerage impacts on the surrounding areas; and the setting of an undesirable precedent. The remaining public comment is a supporting comment from the IIR of San Uk Ka Village.

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

- 12.1 The application is for a proposed Small House development at the Site zoned “GB” on the OZP. 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. There is no strong planning justification in the submission for a departure from the planning intention.
- 12.2 According to 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 39 while the 10-year Small House demand forecast for the same villages is 297. Based on the latest estimate by the Planning Department, about 2.34 ha of land (equivalent to about 93 Small House sites) is available within the “V” zone of the concerned villages. As the footprint of the proposed Small House falls entirely within the ‘VE’ of San Uk Ka, DLO/TP of LandsD has no objection to the application.
- 12.3 The Site, situated at the bottom of a natural slope with vegetation on the slope surface, is located on the south-western fringe of San Uk Ka Village. It is currently vacant and covered by grasses and groundcovers. The proposed development is not incompatible with the surrounding area which is predominantly rural in character and occupied by clusters of village houses and tree groups (**Plans A-2a** and **A-3a**). While DAFC has no strong view on the application provided that the associated site formation works and slope stabilisation works would not affect existing trees on government land within the “GB” zone, CTP/UD&L of PlanD has some reservations on the application from landscape planning point of view. He advises that the Site encroaches onto the existing densely vegetated woodland to its immediate southwest and vegetation clearance within and surrounding the Site had taken place since 2009 (**Plans A-3a** and **A-3b**). Further vegetation clearance and adverse landscape impact to the surroundings due to the proposed site formation works are anticipated. Approval of the application would encourage extension of village cluster resulting in further encroachment onto the existing woodland, the cumulative impact of which would further degrade the landscape quality of the environment in the “GB” zone. In this regard, the application does not comply with TPB-PG No. 10 in that the proposed development would involve clearance of existing natural vegetation affecting the existing natural landscape.
- 12.4 H(GEO) of CEDD has no adverse geotechnical comment on the GPRR submitted by the applicant and no in-principle objection to the application. Besides, C for T has general reservation on the application but considers that the

application involving development of one Small House only can be tolerated on traffic grounds. Other relevant Government departments including DEP, 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 application.

- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the proposed Small House footprint falls within the 'VE' of San Uk Ka. While land available within the "V" zone (**Plan A-2b**) is insufficient to fully meet the future Small House demand of 336 Small Houses, such available land (about 2.34 ha or equivalent to 93 Small House sites) is capable to meet the 39 outstanding Small House applications. It should be noted that the Board has adopted a more cautious approach in approving applications for Small House development in 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. Moreover, the proposed development does not comply with the Interim Criteria as it would cause adverse landscape impact to the surrounding areas.
- 12.6 As shown on **Plan A-2a**, there are 30 similar applications for Small House development in close proximity to the Site within the same "GB" zone. Except for Application No. A/TP/562, which was rejected in 2014 mainly on technical grounds, the other 29 applications were approved. Of them, 27 applications were approved before the Board's adoption of a more cautious approach in approving applications for Small House development in August 2015. For the other two applications (No. A/TP/641 and 662) approved after the adoption of a more cautious approach, they were approved mainly on the grounds that the proposed development was bounded by existing clusters of village houses to the north and south and approved Small House applications to the west. It should be noted that the circumstances of these two approved applications (No. A/TP/641 and 662) are not applicable to the current application.
- 12.7 Regarding the public comments objecting to the application 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 the application for the following reasons:
  - (a) the proposed development is not in line with the planning intention of the "Green Belt" ("GB") zone, which is primarily for defining the limits of urban and suburban 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 for a departure from the planning intention;

- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 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 in the area. The applicant fails to demonstrate that the proposed development would have no adverse landscape impact on the surrounding areas;
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for New Territories Exempted House/ Small House in New Territories in that the proposed development would have adverse landscape impact on the surrounding areas; and
- (d) land is 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.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until **26.6.2024**, 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 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 application and decide whether to grant or refuse to grant 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 applicant.

14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.

**15. Attachments**

Appendix I	Application form and attachment received on 8.4.2020
Appendix Ia	Supplementary information to the application received on 14.4.2020
Appendix Ib	Further information received on 6.5.2020
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	Site plan submitted by the applicant
Plan A-1	Location plan
Plan A-2a	Site plan
Plan A-2b	Estimated amount of land available for Small House development within the “V” zone
Plans A-3a and 3b	Aerial photos
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT  
JUNE 2020**