

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

**APPLICATION NO. A/TM/540**

<b><u>Applicant</u></b>	Mr. CHAN Chin Wai
<b><u>Site</u></b>	Lot 135 RP in D.D. 379, So Kwun Wat, Tuen Mun, New Territories
<b><u>Site Area</u></b>	About 241.6m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35
<b><u>Zoning</u></b>	“Village Type Development” (“V”) (73%) [restricted to maximum building height of 3 storeys (8.23m)]; and  “Green Belt” (“GB”) (27%)
<b><u>Application</u></b>	Proposed House (New Territories Exempted House (NTEH) - Small House)

**1. The Proposal**

1.1 The applicant, who claims to be an indigenous villager (IV) of So Kwun Wat Village<sup>1</sup>, seeks planning permission to build a NTEH (Small House) at the application site (the Site) (**Plans A-1 and A-2**). The Site mainly falls within an area zoned “V” with a small portion within “GB” zone on the approved Tuen Mun OZP No. S/TM/35. According to the Notes of the OZP, ‘House (NTEH only)’ use is always permitted in the “V” zone while “House” use in the “GB” zone requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by an open storage yard of construction materials.

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

Total floor area	:	195.09m <sup>2</sup>
Number of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m <sup>2</sup>

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<sup>1</sup> District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) advises that the eligibility of Small house grant has yet to be verified.

- 1.3 According to the application form, the uncovered area of the Site would be used for circulation area of the proposed Small House. Layout of the proposed Small House (including septic tank) is shown on **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on (Appendix I) 15.5.2019
  - (b) Further information received on 20.6.2019 providing (Appendix Ia) drainage proposal  
*[accepted and exempted from publication and recounting requirements.]*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application stated in Part 9 of the application form at **Appendix I** are summarized as follows:

The proposed Small House is for the applicant's own use. The Small House could provide more living space for the teenagers to grow up.

## **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 New Territories Exempted House/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 respectively. 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' promulgated in July 1991 is relevant to the application. The relevant assessment criteria are summarised as follows:

- (a) there is a general presumption against development (other than redevelopment) in a "GB" zone;
- (b) an application for new development in a "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. With the exception of NTEHs, a plot ratio up to 0.4 for residential development may be permitted;

- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the 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 vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features. Tree preservation and landscaping proposals should be provided;
- (f) 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;
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

## **6. Previous Application**

There is no previous application covering the Site.

## **7. Similar Applications**

7.1 There is no similar application in the subject "V" and "GB" zones on the Tuen Mun OZP. For the So Kwun Wat Village within the adjoining So Kwun Wat OZP No. S/TM-SKW/13, there are ten similar applications (Nos. A/TM-SKW/38, 41, 51, 87, 88, 91, 92, 95, 96 and 97) for NTEH/Small House development within "GB" zone or straddling "V" and "GB" zones. Four of them were approved with conditions and the remaining six were rejected by the Rural and New Town Planning Committee (the Committee) or the Board. Details of the applications are summarised in **Appendix III** and locations of the sites are shown on **Plan A-1**.

### Approved applications

7.2 Applications No. A/TM-SKW/38, 41 and 51 were approved with conditions by the Committee on 16.5.2003, 30.1.2004 and 29.9.2006 respectively, since the first promulgation of the Interim Criteria on 24.11.2000, on consideration that

the applications were generally in line with the Interim Criteria in that there was a general shortage of land in the “V” zone and the sites fell entirely within the ‘VE’. Subsequently, the land available for Small House development in the “V” zone had increased resulting from a zoning amendment of a piece of land from “Open Space” to “V” in 2009 on the Tuen Mun OZP.

- 7.3 Application No. A/TM-SKW/95 was approved by the Committee with conditions on 30.9.2016 as sympathetic consideration was given in view that the site was located in close proximity to the existing village cluster with only less than 2m<sup>2</sup> of its footprint falling outside the “V” Zone.

#### Rejected applications

- 7.4 Applications No. A/TM-SKW/87, 88, 91, 92, 96 and 97 were rejected by the Committee or the Board on 8.8.2014, 10.4.2015 and 14.7.2017. One of the reasons for rejection was that the applications did not meet the Interim Criteria as land was still available within the “V” zone of So Kwun Wat Village. The reasons for rejection are summarized in **Appendix III**.

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

8.1 The Site is:

- (a) located at the southern fringe of So Kwun Wat Village;
- (b) outside the village environ of So Kwun Wat Village (**Plans A-1 and A-2b**);
- (c) currently part of an open storage yard of construction materials; and
- (d) accessible by a local track connecting So Kwun Wat Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is an open storage yard of construction materials. To its northeast and further north across the nullah are clusters of village houses within “V” zones on the Tuen Mun OZP and the adjoining So Kwun Wat OZP;
- (b) to its east is a vegetated slope with residential dwellings; and
- (c) to its south is a residential development under construction named Lepont and to the southwest across So Kwun Wat Road is a residential development known as Napa.

## **9. Planning Intentions**

- 9.1 The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and

reprovisioning of village houses affected by government projects. Land within this zone is primarily intended for 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.

- 9.2 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 proposed Small House - Application site	100%  73%	0%  27%	- The Site mainly falls within an area zoned “V” and partly within “GB” zone while the House footprint entirely falls within “V” zone ( <b>Plan A-2a</b> ).
2.	Within ‘VE’? - Footprint of the proposed Small House - Application site		✓  ✓	- The District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD) advises that the Site and the footprint of the proposed Small House are outside any ‘VE’ of Tuen Mun Heung ( <b>Plans A-1 and A-2b</b> )
3.	Sufficient land in “V” zone to satisfy outstanding Small House applications and 10-year Small House demand?	✓		- Land required to meet Small House demand in So Kwun Wat Village: about 6.95 ha (or equivalent to 278 Small House sites). The outstanding Small House applications are 121 while the 10-year Small House demand forecast for the same village is 157.
	Sufficient land in “V” zone to meet outstanding Small House applications?	✓		- Land available to meet Small House demand within the “V” zone of the village concerned: about 11.9 ha (or equivalent to 476 Small House sites) ( <b>Plan A-2b</b> ).

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
4.	Compatible with the planning intention of “GB” zone?		✓	- There is a general presumption against development within “GB” zone.
5.	Compatible with surrounding area/ development?	✓		- The surrounding areas are mainly vegetated land, an open storage yard and residential developments, such as Lepont and Napa, and village houses.
6.	Within Water Gathering Ground?		✓	- The Site is not located within water gathering ground. - The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no comment on the application.
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 application.
9.	Traffic impact?		✓	- The Commissioner for Transport (C for T) has no adverse comment on application from traffic engineering perspective.
10.	Drainage impact?	✓		- The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) noted that the layout plan as provided by the applicant ( <b>Appendix Ia</b> ) does not contain sufficient information and details to demonstrate the adequacy of the drains in which no adverse drainage impact would result from the subject development.  - Notwithstanding the above, should the application be approved, an

	<b><u>Criteria</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Remarks</u></b>
				approval condition may be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that the proposed House will not cause any adverse drainage impact to the adjacent area.
11.	Sewerage impact?		✓	<ul style="list-style-type: none"> <li>- The Director of Environmental Protection (DEP) states 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 Persons (ProPECC PN) 5/93 'Drainage Plan subject to Comment by the Environmental Protection Department' and are duly certified by an Authorised Person.</li> </ul>
12.	Landscape impact?		✓	<ul style="list-style-type: none"> <li>- Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&amp;L, PlanD) has no objection to the application from the landscape planning point of view. With reference to the applicant's submission and site visit conducted on 24.5.2019, the Site is currently vacant without any major vegetation. The proposed use is considered not incompatible with the surrounding landscape character and adverse landscape impact is not anticipated.</li> <li>- Director of Agriculture, Fisheries and Conservation (DAFC) has no adverse comment on the application from the nature conservation perspective having considered that the Site is mostly hard paved and the development footprint mostly falls within the "V" zone.</li> </ul>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
13.	Geotechnical impact?		✓	
14.	Local objection received from DO?		✓	

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

- (a) District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD)
- (c) Director of Environmental Protection (DEP);
- (d) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (e) Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD);
- (f) Commissioner for Transport (C of T);
- (g) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (h) Director of Fire Services (D of FS).

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

- (a) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West Development Office), Civil Engineering and Development Department (PM(W), CEDD);
- (d) Commissioner of Police (C of P);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD).

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

On 21.5.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 11.6.2019, six public comments were received from World Wide Fund For Nature Hong Kong, Designing Hong Kong Limited and four private individuals (**Appendix V**) objecting to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; being outside the village cluster; being ‘destroy first, build later’; blocking the only access to village houses in the vicinity and setting of undesirable precedent.



## 12. Planning Considerations and Assessments

- 12.1 The current application is for a proposed Small House at the Site. The Site mainly falls within an area zoned “V” (about 73%) with the remaining portion within the “GB” zone (about 27%) (**Plan A-2a**). The planning intention of the “V” zone is primarily intended for development of Small House by indigenous villagers whereas the planning intention of the “GB” zone is 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. However, it should be noted that the footprint of the proposed Small House entirely falls within “V” zone. No tree felling or major vegetation clearance will be involved. CTP/UD&L and DAFC have no objection to/comment on the application. In this regard, the proposed development should have minimal impact on the integrity of the “GB” zone.
- 12.2 The Site is mainly surrounded by vegetated land, an open storage yard and scattered residential dwellings. The proposed Small House is not incompatible with the surrounding areas which is predominately rural in character (**Plan A-2a**).
- 12.3 According to DLO/TM, the total number of outstanding Small House applications for So Kwun Wat Village is 121 while the 10-year Small House demand forecast is 157. Based on the latest estimation by the Planning Department, about 11.9 ha (or equivalent to about 476 Small House sites) of land is available within the “V” zone covering So Kwun Wat Village on the approved Tuen Mun OZP No. S/TM/35 and the adjoining “V” zone on the approved So Kwun Wat OZP No. S/TM-SKW/13 (the concerned “V” zones) (**Plan A-2b**).
- 12.4 While land available within the “V” zone is sufficient to meet the outstanding Small House applications and the future Small House demand, sympathetic consideration may be given to the current application as the proposed Small House footprint entirely falls within “V” zone and the portion of the Site (about 23% of the site area) within the “GB” zone will only be used as circulation area for the proposed Small House (**Plan A-2a**). The current proposed Small House development is compatible with a cluster of Small House applications located to the immediate north and within the “V” zone being processed by DLO/TM (**Plan A-2b**).
- 12.5 The current application will not result in adverse impacts on landscape, visual, sewerage, traffic and environmental aspects. Relevant departments, including C for T, CHE/NTW of HyD, DEP, CE/C of WSD, D of FS, DAFC and CTP/UD&L of PlanD, have no objection to/ adverse comments on the application. As for drainage impact perspective, CE/MN of DSD advised that the drainage proposal submitted by the applicant does not contain sufficient information to demonstrate the adequacy of the drains in which no adverse drainage impact would result from the proposed Small House. To address CE/MN of DSD’s concern, approval condition on submission and implementation of drainage proposal is recommended in paragraph 13.2(a).

- 12.6 There are ten similar applications for proposed Small House development within the concerned “V” zones of So Kwun Wat Village on the So Kwun Wat OZP. Four applications were approved mainly based on the consideration that there were insufficient land available in the “V” zone to meet the 10 years Small Houses demand at that time, and one application (No. A/TM-SKW/95) was approved under sympathetic consideration that the site was located in close proximity to the existing village cluster with only less than 2m<sup>2</sup> of its footprint falling outside “V” zone. The remaining six applications were rejected mainly based on the grounds of not meeting the Interim Criteria, in view that land was still available within the “V” zone of So Kwun Wat Village. The circumstance of the current application is similar to the approved application No. A/TM-SKW/95 in that the building footprint of the proposed Small House entirely falls within “V” zone, only a small portion of the Site encroaches onto the “GB” zone and adverse impact on the integrity of the “GB” zone is minimal.
- 12.7 Six public comments were received during the statutory publication period. The planning considerations and assessments in paragraphs 12.1 to 12.6 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 has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 5.7.2023, 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 submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) 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.

#### Advisory Clauses

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

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for the Members’ reference.

Land is still available within the “Village Type Development” zones of So Kwun Wat Village 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.

**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 approve the application, Members are invited to consider the approval conditions and advisory clauses to be attached to the permission, and the date when the validity of the permission should expire.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 15.5.2019
<b>Appendix Ia</b>	Further information received on 20.6.2019
<b>Appendix II</b>	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories (promulgated on 7.9.2007)
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Detailed comments from relevant Government departments
<b>Appendix V</b>	Public comments
<b>Appendix VI</b>	Recommended advisory clauses
<b>Drawing A-1</b>	Proposed layout plan
<b>Plan A-1</b>	Location plan
<b>Plan A-2a</b>	Site plan
<b>Plan A-2b</b>	Estimated amount of land available for Small House development within the concerned "V" zones
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4a to 4b</b>	Site photo

**PLANNING DEPARTMENT  
JULY 2019**