

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/406

- Applicant** : Man Hau Tsuen represented by Lee Wai Leung
- Site** : Lot 127 (Part) in D.D. 104, Ngau Tam Mei, Yuen Long
- Site Area** : About 450.7 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ngau Tam Mei Outline Zoning Plan (OZP) No. S/YL-NTM/12
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Flats

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed flats (2 units in a 2-storey building) at the application site (the Site). According to the Notes of the OZP for the “GB” zone, ‘Flat’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). Majority of the Site is occupied by a vacant structure, and the remaining part of the Site is vegetated and encroaches onto an existing local track.
- 1.2 The applicant proposes a two-storey flat development at the Site, with anticipated completion in year 2024. Details of the proposed flat are as follows:

Site Area	about 450.7 m ²
Gross Floor Area (GFA)	about 180 m ²
Plot Ratio (PR)	about 0.4
No. of Block	1
Building Height (BH)	not exceeding 6.6m
No. of Storeys	2
No. of Units	2
Site Coverage (SC)	about 20%
Private Open Space	not less than 360 m ²
Private Car Parking Spaces	2
Estimated no. of Residents	7

- 1.3 The Site is accessible to Ngau Tam Mei Road via local tracks (**Plans A-1 to A-2**). According to the applicant, the ingress/egress is proposed at the western boundary, and an on-site septic tank is proposed within the Site. Besides, the existing local track located at the eastern portion of the Site will be fenced off from the proposed flat development, hence both the existing track and the watercourse at the east of the Site will not be affected. The layout, floor and elevation plans are at **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form and supporting planning (**Appendix I**) statement received on 23.6.2020
 - (b) Further information (FI) received on 12.8.2020 and (**Appendix Ia**) 17.8.2020 providing background information and responses to departmental comments (exempted from publication requirement)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I** and FI in **Appendix Ia**. They can be summarized as follows:

- (a) The applicant has no accommodation. The Site is the only piece of land owned by the applicant. He applies for a planning permission for the subject house development for his future retirement use.
- (b) Only 2 private car parking spaces is proposed at the Site. Only Light Goods Vehicle (LGV) will be used during the construction period.
- (c) Both the existing local track and the watercourse at the east of the Site will not be affected and the proposed flats will be fenced off.

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. 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 as below:

- (a) There is a general presumption against development (other than redevelopment) in “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 PR, SC and BH should be compatible with the character of surrounding areas. With the exception of NTEHs, a PR up to 0.4 for residential development may be permitted.
- (c) Redevelopment of existing residential development will generally be permitted up to the intensity of the existing development.
- (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, road 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.

5. Background

The Site is not subject to planning enforcement action.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Application

There is no similar application within the “GB” zone on the Ngau Tam Mei OZP.

8. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

8.1 The Site is:

- (a) largely occupied by a vacant structure, partly vegetated, and partly encroaching onto an existing local track (**Plan A-2**); and
- (b) accessible via local track leading to Ngau Tam Mei Road (**Plan A-1**);

8.2 The surrounding areas are rural in character with a mixture of agricultural uses, vacant/unused land and residential dwellings. They have the following characteristics:

- (a) to its east is a watercourse and unused land with dense vegetation; to the further northeast are fish farms, and the Ngau Tam Mei Water Treatment Works is located about 300m away.
- (b) to its south and southeast are residential dwellings and unused land;
- (c) to its west and southwest are residential dwellings and unused land; and
- (d) to its north and northwest are a mushroom farm and a fish farm.

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 following Government departments have been consulted and their views are summarized as follows:

Land Administration

10.1.1 Comments from the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) According to desktop checking, the Site is located within the Lot which is an old schedule agricultural lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.

- (b) The ownership particulars of the Lot forming the Site have to be examined in details at the land exchange application stage, if applied.
- (c) The Site has an area of about 450.7m², of which site area, site boundaries, lease details, etc. are subject to verification upon receipt of land exchange application (if any).
- (d) In the event that planning permission is given by the Board for the proposal, the applicant should be reminded that land exchange would be required to implement the proposal. Upon receipt of the land exchange application, LandsD will consider the application in its private capacity as landlord and there is no guarantee that the land exchange, including but not limited to the grant of any right of way (if any), for the proposed development will be approved. The land exchange, if approved, will be subject to such terms and conditions, including, among other things, payment of premium, administrative fee and other applicable fees, to be imposed by LandsD as at sole discretion.

Traffic

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

- (a) The Site is connected to the public road network via a section of local access which is not managed by Transport Department. The land status of the local access road should be clarified with the LandsD by the applicant. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.
- (b) Prohibition of vehicles longer than 7m entering Ngau Tam Mei Road from San Tam Road is currently implemented. Only private car or light goods vehicle not exceeding 7m length are allowed to access the Site.
- (c) No vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);

The section of Ngau Tam Mei Road between Greenacres Villa and the Site is not and will not be maintained by his Department.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

As the Site falls outside any administrative route protection boundary, gazetted railway scheme boundary, or existing railway protection boundary of any railway systems, he has no comment on the application from railway development point of view.

Environment

10.1.5 Comments of the Director of Environmental Protection (DEP):

- (a) It is noted that the proposed flats are located within “GB” zone of the Ngau Tam Mei OZP.
- (b) He has no objection to the planning application. In view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Environmental Protection Department (EPD)’s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the EPD” and are duly certified by an Authorized Person (AP).
- (c) The Site falls within the Potentially Hazardous Installations (PHI) Consultation Zone of the Ngau Tam Mei Water Treatment Works. He has no adverse comment from hazard to life point of view and Hazard Assessment is not required.

Nature Conservation

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

It is noted from the FI that the proposed use will not encroach onto the natural stream at the east of the Site. Nevertheless, the applicant shall propose necessary measures to avoid polluting the adjacent natural stream during construction and operation of the proposed use.

Landscape and Visual Aspects

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

Urban Design and Visual

- (a) The Site of about 450.7m² falls within “GB” zone and is situated in an area surrounded by dense vegetation and temporary structures of 1 to 2 storeys, which is predominantly rural in character.

- (b) The current application seeks planning permission for proposing a flat of 2 storeys (about 6.6m in height) with a PR of 0.4. In view of the small scale of the proposed development, no significant visual impact is envisaged.

Landscape Planning

- (c) He has reservation on the application from the landscape planning perspective.
- (d) The Site falls within the area zoned “GB” on the Ngau Tam Mei OZP. The Site is not the subject of any previous planning application.
- (e) Referring to the aerial photo in 2018, the Site is situated in an area of rural landscape character comprising of scattered tree groups, fish ponds, farmlands, squatters and temporary structures. Dense vegetation is found to its immediate east. The proposed development is not entirely compatible with the existing landscape character. With reference to our site visit in July 2020, the Site is partly occupied with temporary structure and partly vacant. One sapling of common countryside tree species *Ficus variegata* (青果榕) is found within the Site and in direct conflict with the proposed development. Significant adverse impact to landscape resources within the Site is nevertheless not anticipated. However, given that there is no similar application within the same “GB” zone that have previously been approved by the Board, there is concern that approval of this application would set an undesirable precedent encouraging similar application encroaching into the “GB” zone. The cumulative impact would result in general degradation of the landscape quality and cause significant adverse impact on the landscape character of the area.

Drainage

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

- (a) He has no objection in principle to the proposed development from the drainage operation and maintenance point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, approval conditions should be stipulated requiring the applicant (i) to submit a drainage proposal showing how the existing watercourse at eastern side will be protected and not be adversely affected by the proposed works, considering the overland flow from the west of the Site could be maintained across the Site, and including measure(s) to show how the flow paths of overland flow from and/or across

the Site could be intercepted and disposed properly without including adverse drainage impact to both surrounding areas and the Site, and (ii) to implement the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Building Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Building Department (CBS/NTW, BD):

- (a) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and his department is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The following issues should be observed by the applicant:
 - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Building Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing works or UBW on the Site under the BO;
 - (iii) before any new building works (including containers and open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are UBW. An AP should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iv) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation (B(P)R) respectively;
 - (v) the Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage;
 - (vi) for features applied to be excluded from the calculation of the total gross floor area, it shall be subject to compliance

with the requirements laid down in the relevant Joint Practice Notes and Practice Notes for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers (PNAP). For example, the requirements of building set back, separation and site coverage of greenery as stipulated in PNAP APP-152; and

- (vii) detailed checking will be carried out during building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the application subject to water supplies for fire fighting and fire service installations (FSIs) being provided to his satisfaction.
- (b) Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.
- (c) Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building P(Planning) Regulation 41(D) which is administered by the BD.

Water Supply

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

He has no objection to the application, and his advisory comments are detailed at **Appendix III**.

Electricity Aspect

10.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

The applicant shall approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the application site. Based on the cable plans and the relevant drawings obtained, if there is underground cable and/or overhead line within or in the vicinity of the application site, the applicant shall carry out the following measures:

- (a) For Site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV or above

as stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG) published by the Planning Department, prior consultation and arrangement with CLP Power is necessary.

- (b) Prior to establishing any structure within the application site, the applicant and/or his contractors shall liaise with the electricity supplier and, if necessary, ask CLP Power to divert the underground cable and/or overhead line away from the vicinity of the proposed structure.
- (c) The Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation shall be observed by the applicant when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

10.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

He has no comment on the application and the local comments should be submitted to the Board directly, if any.

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

- (a) Commissioner of Police;
- (b) Director of Leisure and Cultural Services;
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) Project Manager (West), Civil Engineering and Development Department.

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 3.7.2020. During the first three weeks of the statutory publication period which ended on 24.7.2020, 42 public comments were received (**Appendix II**) which were submitted by San Tin Rural Committee, World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong, and individuals including local villagers. They are all objecting to/raising concerns on the application that the proposed development is not in line with the planning intention of the “GB” zone and incompatible with the surrounding developments; the natural river course in the vicinity will be adversely affected; the existing village track will be blocked affecting the villager’s traveling route; there will be adverse traffic, ecological, environmental, sewerage and drainage impacts, affecting the neighbourhood’s livelihood; and the “GB” zone should be protected for the benefit of the community at large.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed flat development at the Site. A 2-storey building (not exceeding 6.6 m) of a GFA of 180m² and PR of 0.4 providing two flat units is proposed. The Site falls within an area zoned “GB” which is intended 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. According to TPB PG-No. 10, development in the “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. It is considered that the proposed development at the Site is not in line with the planning intention of the “GB” zone and the TPB PG-No. 10. The applicant has not provided strong justification to warrant a departure from the planning intention of the “GB” zone.
- 12.2 The Site is amid a large “GB” zone with dense vegetation to the east of the Site, and some agricultural uses, residential dwellings, vacant and unused land in the surrounding areas. There is no previous planning approval for house/flat development within “GB” zone on the NTM OZP. Approval of the application would set an undesirable precedent for similar applications within the “GB” zone. The cumulative effect of which will result in a general degradation of the environment of the “GB” zone. CTP/UD&L, PlanD has reservation on the application from landscape planning perspective and considers that the proposed flat development is not entirely compatible with the existing landscape character, and is concerned that approval of this application would set an undesirable precedent encouraging similar application encroaching into the “GB” zone, and the cumulative impact would result in general degradation of the landscape quality and cause significant adverse impact on the landscape character of the area. Other concerned departments including C for T, DAFC, DEP, CE/MN, DSD, D of FS and CE/C, WSD have no objection to or no comment on the proposed house development from traffic, nature conservation, environmental, sewage, drainage, fire safety and water supply perspectives.
- 12.3 42 public comments were received during the statutory publication period objecting to the application as detailed in paragraph 11. The planning considerations and assessments above are of relevance.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, 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 “GB” zone, which is to define 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 for a departure from the planning intention;

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

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.8.2024, 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 submission and implementation of the drainage proposal to the satisfaction of the Director of Drainage Services or of the Board; and
- (b) the submission and implementation of fire service installations proposal and water supplies for fire fighting to the satisfaction of the Director of Fire Services or of the Board.

Advisory Clauses

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

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 reasons 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 supporting planning statement received on 23.6.2020

Appendix Ia FI received on 12.8.2020 and 17.8.2020

Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout
Drawing A-2	Elevation Plan
Drawing A-3	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
AUGUST 2020**