

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

APPLICATION NO. A/I-LI/31

- Applicant** : Far East On Time Limited represented by Kenneth To & Associates Limited
- Site** : Lot No. 215 in D.D. 5 LM, Luk Chau, Lamma Island
- Site Area** : 185m² (about)
- Lease** : Building lot held under New Grant (NG) No. 6768, and is restricted to :
(a) non-industrial purposes;
(b) shall not contain more than two and a half storeys;
(c) shall not exceed a height of 7.5m; and
(d) the maximum built-over area (BOA) shall not exceed 65m²
- Plan** : Approved Lamma Island Outline Zoning Plan (OZP) No. S/I-LI/11
- Zoning** : “Coastal Protection Area” (“CPA”)
[redevelopment is subject to a maximum plot ratio (PR) of 0.4, a maximum site coverage (SC) of 20%, and a maximum building height (BH) of 2 storeys (7.6m) or the PR, SC and height of the existing house, whichever is the greater]
- Application** : Proposed House (Redevelopment) with Minor Relaxation of Existing Building Height and Filling of Land/Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for redevelopment of the existing 2-storey New Territories Exempted House (NTEH) into a 2-storey village type house, with minor relaxation of existing building height from 5.88m to 7.5m, and filling of land/excavation of land for foundation work at the application site (the Site). According to the Notes of the OZP, ‘House (Redevelopment only)’ and minor relaxation of building height and filling of land/excavation of land in “CPA” zone require planning permission from the Town Planning Board (the Board).
- 1.2 The Site is a building lot held under NG No. 6768. According to the applicant, the existing village house¹ on Site is a NTEH built in the early 1980s. Based on the on-site measurement provided by the applicant, the existing house has a gross

¹ The existing NTEH on Site was built before the publication in the Gazette of the notice of the first statutory plan covering Lamma Island (i.e. Lamma Island OZP No. S/I-LI/1) on 25.8.2000.

floor area (GFA), SC and BH of 138.51m² (about) (equivalent to PR of 0.749), 39.68% (about) and 5.88m (about) respectively.

- 1.3 In the current application, the applicant proposes to redevelop the existing 2-storey NTEH on the Site into a new 2-storey village type house within the building footprint of the existing house, while the rest of the Site will be paved with timber deck and tiles. The proposed GFA, SC and BH of the new house are 138.16m² (about) (equivalent to PR 0.747), 39.55% (about) and 7.5m (about) (Table 3.1 of **Appendix Ib** refers) respectively. According to Concept Design Proposal (**Drawings A-1 to A-4**), there will be a swimming pool and garden on the roof level, and a balcony along the western façade of the new house. As the new house is not a NTEH, the building proposal will therefore be subject to the approval of the Building Authority (BA). A comparison between the existing house development and the proposed redevelopment scheme is as follows:

Development Parameters	OZP Restrictions	Existing⁽¹⁾ Development (a)	Proposed⁽²⁾ Scheme (b)	Difference (b - a)
Site Area (m ²)	-	185 (about)	185 (about)	-
GFA (m ²)	-	138.51 (about)	138.16 (about)	-0.35 (-0.25%)
PR	0.4	0.749 (about)	0.747 (about)	-0.002 (-0.25%)
SC	20%	39.68% (73.4m ²) (about)	39.55% (73.2m ²) (about)	-0.13%
BH (m)	7.6	5.88 (about)	7.5 (about)	+1.62 (+27.55%)
No. of Storeys	2	2	2	-

(1) According to the applicant, the dimension of the existing house, including the balcony, were measured on-site by related professionals. There might be a slight measurement/ observational errors.

(2) The balcony of the proposed house (about 8.2m² (4.41%)) will be included in GFA and SC calculations under the Building (Planning) Regulations.

- 1.4 According to the applicant, no tree felling is involved. As indicated in the landscape proposal (**Drawing A-6**), the existing tree along the northern boundary of the Site and the amenity planting along the western boundary will be maintained with additional amenity planting to be provided along the northern boundary of the Site. The Site has a building platform which might have been formed during the development of the existing NTEH. According to the application, no site formation works are involved in the redevelopment proposal. However, to support the proposed redevelopment scheme, provision of vertical and raking mini-piles founding into bedrock are required. Hence, the applicant proposes land filling/excavation confining to the building footprint of the existing building to facilitate the construction of pile cap/footing foundation. The proposed excavation depth for the pile cap/footing construction is approximately 3m in general. The schematic design for the proposed land filling/excavation at the Site is at **Drawing A-7**.

- 1.5 The existing soakaway pit will be retained and used for sewage treatment and disposal (**Drawing A-1**). The Site is accessible via an existing footpath connecting to Luk Chau Village. Indicative Schematic Drawing, Indicative Section Drawing, Indicative Landscape Drawing, and Schematic Design (Section) submitted by the applicant are at **Drawings A-1 to A-7**.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 28.10.2020 (**Appendix I**)
 - (b) Supporting Planning Statement (SPS) received on 28.10.2020 (**Appendix Ia**)
 - (c) Letter received on 9.11.2020 clarifying the details of the application (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices Ia** and **Ib** and summarised as follows:

- (a) the proposed redevelopment would not jeopardise the planning intention of the “CPA” zone. The Site has been paved with no landscape, scenic or ecological value. The proposed redevelopment would not create adverse impact on the conservation, protection or retention of the existing natural coastline, landscape and topographical features of the area;
- (b) the rights for house redevelopment of the subject lot under the NG Lease should be respected. The redevelopment proposal is a continuation of the existing residential use on-site. The proposal redevelopment would not be incompatible with the surrounding built environment which mainly comprises houses of 1 to 2 storeys;
- (c) the proposed BH (i.e. 7.5m) in the current application conforms with the maximum BH restriction (i.e. 7.6m) stipulated under the Notes of the OZP for “CPA” zone. It is anticipated that the proposed redevelopment will not result in any adverse visual impact in the area;
- (d) the existing soakaway pit will be retained and used for sewage treatment and disposal. Since there is no expansion of scale and scope of the house, adverse sewerage impact or an increase in the pollution loads to the surrounding environment are not anticipated;
- (e) the proposed redevelopment would bring no adverse drainage impact. Since the Site has been paved and there is no change to the development footprint, there will be no increase in surface runoff;
- (f) the proposed redevelopment comprises one 2-storey residential building. No site formation works are involved under the proposed redevelopment. However, excavation and lateral support works are proposed to facilitate the construction of pile cap/footing foundation. During the construction of excavation and lateral supports works and foundation works, the implementation of a comprehensive monitoring programme is proposed on Site. The construction is relatively small

in scale, it is considered that the proposed development is geotechnically feasible, and no major geotechnical problem will be envisaged; and

- (g) the existing house was built in the early 1980s (i.e. nearly 40 years old), which is suffering from leakage problem. The proposed redevelopment is necessary to tackle the root of the leakage problem.

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. Previous Application

The Site is not the subject of any previous application.

5. Similar Application

There is no similar application within the subject “CPA” zone on the OZP.

6. The Sites and Its Surrounding Areas (Plans A-1 to A-2 and photos on Plans A-3 to A-5)

6.1 The Site is:

- (a) located on the northeast coast of Lamma Island (**Plan A-1**) fronting Luk Chau Wan;
- (b) relatively flat, paved and partly occupied by an existing 2-storey NTEH (**Plan A-5**); and
- (c) accessible via an existing footpath connecting to Luk Chau Village (**Plan A-2**).

6.2 The surrounding areas have the following characteristics:

- (a) predominantly rural in character with natural vegetation, including trees, shrubs and weeds. Low-rise residential buildings, including house/NTEH of 1 to 3 storeys can be found scattering along the coast within the same “CPA” zone (**Plan A-3**);
- (b) an existing recognized village namely Luk Chau Village (zoned “Village Type Development” (“V”)) is located to the southwest about 110m away from the Site (**Plans A-1, A-2 and A-3**);
- (c) to the further southeast is Luk Chau Shan (**Plans A-2 and A-3**); and

- (d) to the northeast of the Site (about 130m away) is another village type development area (zoned “V”) which is not a recognised village. House developments of 2 to 3-storeys, which were built in the late 1970s and early 1980s, can be found within this area.

7. Planning Intention

The planning intention of the “CPA” zone is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. In general, only developments that are needed to support the conservation of the existing natural landscape or scenic quality of the area or are essential infrastructure projects with overriding public interest may be permitted.

8. Comments from Relevant Government Departments

- 8.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/Islands, Lands Department (DLO/Is, LandsD):
 - (a) the Lot is a building lot held under NG No. 6768 dated 18.6.1980. According to Special Condition (SC) No. 9(a) of NG No. 6768, no structure shall be erected on the Lot other than one building which shall not contain more than two and a half storeys nor exceed a height of 7.5m and the maximum BOA of the Lot shall not exceed 65m². SC No. 12 of NG No. 6768 restricts the Lot to non-industrial purposes;
 - (b) SC No. 11 of NG No. 6768 states that BOA under lease shall exclude the areas of any overhang or the area of one balcony and one canopy projecting from the same side of the building for a distance of not more than 1.22m (4 feet) such balcony having a parapet or railing not exceeding 1.22m (4 feet) nor less than 0.92m (3 feet) in height;
 - (c) according to SC No. 28 of NG 6768, the Government cannot guarantee any right-of-way (ROW) to the Lot, and the grantee will accordingly have to make his own arrangements for acquiring such ROW;
 - (d) the Lot is granted for NTEH development. A building was constructed on the Lot before commencement of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) on 16.10.1987. Hence, no Certificate of Exemption was issued. After checking compliance with the General and Special Conditions of NG No. 6768, a Certificate of Compliance (CoC)

in respect of the Lot was issued on 2.12.1980. If there is no change to the building or redevelopment of the Lot after the issuance of the CoC, the building can be regarded as a NTEH;

- (e) according to a sketch prepared on 10.11.1980 for the purposes of issue of CoC, the BOA of the then 2-storey building on the Lot was measured at 65m² (i.e. 8.53m x 7.62m). The height of the then building was 6.01m. There were one balcony, one canopy and a parapet wall of 0.91m in height on the balcony. After checking compliance with the General and Special Conditions of NG No. 6768, a CoC in respect of the Lot was issued on 2.12.1980. No building plans of the existing building structure on Site are kept by DLO/Is, LandsD;
- (f) according to the applicant, the proposed 2-storey building structure on Site will not be a NTEH and its building plans will be subject to the BA's approval; and
- (g) there is insufficient information in the Indicative Schematic Drawing to show dimension of the stairhood on roof of the proposed house. In this connection, DLO/Is, LandsD is unable to check if the area of the proposed stairhood exceed the maximum area of 7.44m² as stated in SC No. 11 of NG No. 6768 (regarding 'height'). DLO/Is, LandsD reserves comment on whether the redevelopment proposal is acceptable from the lease perspective. Should the planning application be approved by the Board, the owner of the Lot should submit a rebuilding application to DLO/Is, LandsD prior to the commencement of the proposed development. However, there is no guarantee that the Government will process the rebuilding application and the Government may reject the application as it sees fit. The application, if approved by LandsD acting in the capacity as the landlord at its discretion, will be subject to such terms and conditions as shall be considered appropriate by LandsD including, inter alia, payment of premium and administrative fee or such other fees as the Government sees fit.

Traffic

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

since the applicant only seeks planning permission for proposed redevelopment of house, with minor relaxation of existing building height and filling of land/excavation of land at the Site, C for T has no in-principle objection to the application from traffic engineering point of view. The access roads in the vicinity of the Site are not managed by the Transport Department.

Environment

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

- (a) DEP has no objection to the subject application;

- (b) under Section 4.5.1 of the submitted SPS (October 2000), the applicant states that the existing soakaway pit will be remained and used for sewage treatment and disposal. The applicant also advises that there is no expansion of scale and scope of the house. Therefore, the applicant is not required to submit Sewerage Impact Assessment of the proposed redevelopment; and
- (c) as there is no existing public sewer connection available in the vicinity of the proposed redevelopment site, the applicant should be advised that septic tank and soakaway system is an acceptable means for the collection, treatment and disposal of the sewage provided that its design and construction follow the requirement of the Practice Note for Professional Person (ProPECC) 5/93 and are duly certified by an Authorized Person.

Urban Design and Visual

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

the Site is located at the eastern coastline of Luk Chau Wan at +5.1mPD. Low-rise settlements of 1 to 3 storeys can be found scattered to the northeast and southwest of the Site along the coast. It is noted that the proposed PR and SC of the redevelopment is more or less the same as the existing house. The proposed redevelopment with a building height of about 7.5m is considered not incompatible with the surrounding environment, and significant visual impact is not anticipated.

Landscape

8.1.5 Comments of CTP/UD&L, PlanD:

- (a) according to aerial photo of 2019, the Site is situated in an area of rural landscape character predominated by woodland. Some existing village houses are observed in the surrounding coastal areas. The Site is currently occupied by a 2-storey house. The proposed redevelopment is considered not incompatible with the landscape character of the surrounding environment. An existing tree is observed within the Site, which is adjacent to the existing house. According to the applicant, the existing tree will be preserved in-situ on Site;
- (b) in view that significant adverse landscape impact arising from the proposed development is not envisaged, she has no objection to the application from landscape planning perspective;
- (c) the applicant is advised to follow Development Bureau's guideline on the proper tree protection works during construction period; and
- (d) the applicant is advised that approval of s.16 application does not imply approval of tree works such as felling, transplanting or pruning under lease. The applicant is reminded to approach

relevant authority/government department(s) direct to obtain necessary approval on tree works, where appropriate.

Nature Conservation

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

as the Site is occupied by an existing house and the proposed redevelopment will be confined within the lot boundary of the existing development, DAFC has no strong view on the application from the ecological perspective.

Drainage

8.1.7 Comments of the Chief Engineer/Hong Kong & Islands, Drainage Services Department (CE/HK & I, DSD):

- (a) no comment on the subject planning application from drainage and sewerage points of view; and
- (b) the proposed continuous use of the existing soakaway system for sewage treatment and disposal should be subject to the view and agreement of DEP as the planning authority of sewerage infrastructure and the relevant statutory requirements.

Building Matters

8.1.8 Comments of the Chief Building Surveyor/New Territories East 1 & Licensing, Buildings Department (CBS/NTE1&L, BD):

- (a) if the existing structure is NTEH under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121), DLO/Is, LandsD should be in a better position to comment on the captioned application;
- (b) if the proposed development is not NTEH under Cap 121, CBS/NTE1&L, BD has the following comments under the Buildings Ordinance (BO):
 - (i) before any new building works (including site formation works, drainage works) are to be carried out on the Site, prior approval and consent from the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW);
 - (ii) the Site does not abut on a specified street of width not less than 4.5m, the development intensities and BH shall be determined by the BA under B(P)R19(3) upon formal submission of building plans to the BD;

- (iii) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with B(P)R5 and 41D respectively;
 - (iv) detailed comments under the BO on the private development/ building such as permissible PR, SC, emergency vehicular access (EVA), provision of means of escape, fire resisting construction, barrier free access and facilities, compliance with the sustainable building design guidelines, etc. will be formulated at the formal building plan submission stage;
 - (v) if there are existing structures which had been erected on leased land without approval of the BD (not being a NTEH), they are unauthorized under the BO and should not be designated for any approved use under the subject application;
 - (vi) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (c) demolition proposal for the existing building at the subject lot was approved by BD on 17.9.2020.

Fire Safety

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

- (a) D of FS has no specific comment on the application subject to fire service installations and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) EVA arrangement shall comply with Section 6, Part D of the 'Code of Practice for Fire Safety in Buildings 2011' which is administered by the BD. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Geotechnical Aspect

8.1.10 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

- (a) H(GEO) has no geotechnical comment on the application; and
- (b) it is noted from Section 8 of the Geotechnical Planning Review Report (GPRR) that all geotechnical features affected or being affected by the proposed redevelopment would be further reviewed in the detailed design stage. The applicant should be

reminded that any effect of the proposed redevelopment on the stability of adjacent slope features, or vice versa, and any necessary stabilisation/mitigation measures should be addressed in a formal site formation submission to the BD for approvals.

8.2 The following government departments have no objection to/ no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) District Officer/Islands, Home Affairs Department;
- (c) Director of Food and Environmental Hygiene; and
- (d) Commissioner of Police.

9 Public Comments Received During Statutory Publication Period

On 10.11.2020, the application was published for public inspection. During the first 3-week statutory public inspection periods, which ended on 1.12.2020, one public comment from a public member was received (**Appendix II**). The commenter raises concerns on the proposed land filling involved in the redevelopment of the existing house, and potential sewerage impacts to the surrounding areas if there is a leakage problem in the existing soakaway system.

10 Planning Considerations and Assessments

10.1 The application involves in-situ redevelopment of an existing 2-storey NTEH (5.88m in height) with a total GFA of about 138.51m² into a new 2-storey village type house (7.5m in height) with a total GFA of about 138.16m² at the Site and associated filling/excavation of land for about 3m within the footprint of the existing house for foundation works. The Site falls within an area zoned “CPA” on the OZP, the planning intention of which is to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment, including attractive geological features, physical landform or area of high landscape, scenic or ecological value, with a minimum of built development. There is a general presumption against development in this zone. Although the proposed redevelopment for village type house is not in line with the planning intention of the “CPA” zone, according to LandsD, the Site is a building lot held under NG No. 6768. Given the existing house has been in existence since 1980 and the proposed redevelopment generally comply with the lease concerned, the application merits sympathetic consideration.

10.2 The applicant proposes to redevelop the existing 2-storey NTEH into a 2-storey village type house, and to increase the BH of the redeveloped village type house from 5.88m to 7.5m (+1.62m (+27.55%)). According to the Notes of the OZP, no redevelopment of an existing house shall result in a total redevelopment in excess of a maximum PR of 0.4, a maximum SC of 20%, and a maximum BH of 2 storeys (7.6m) or the PR, SC and height of the existing house, whichever is the greater. According to the application, the applicant proposes to redevelop the house to the PR and SC of the existing NTEH on the Site but to increase the BH from 5.88m of the existing NTEH to 7.5m (+1.62m). Hence, the applicant seeks approval for minor relaxation of the existing BH from 5.88m to 7.5m. While there is an increase of BH of the redeveloped house by 1.62m, the BH of the

redeveloped house up to 7.5m does not exceed the stated BH restriction in the Notes of the “CPA” zone. The proposed 2-storey village type house is also considered not incompatible with the existing 1 to 3 storeys houses scattering along the eastern coastline of Luk Chau Wan within the same “CPA” zone and the village houses within the “V” zone in the area. According to CTP/UD&L, PlanD, the proposed minor relaxation of BH will not have any significant visual impact on the nearby environment.

- 10.3 The applicant proposes filling/excavation of land to facilitate the construction of pile cap/footing foundation which is confined to the building footprint of the existing building in order to support the redevelopment scheme. The proposed excavation depth for the pile cap/footing construction is approximately 3m in general. Since the proposed land filling/excavation confining to the building footprint of the existing building is relatively small in scale, no adverse geotechnical impact on the surrounding areas is anticipated. The applicant has submitted a GPRR and H(GEO), CEDD has no geotechnical comment on the application.
- 10.4 Given that the application is for in-situ redevelopment of an existing NTEH into a village type house, relevant government departments including CTP/UD&L, PlanD and AFCD have no objection to/adverse comment on the application from landscape planning and ecological perspectives. Other relevant government departments, including EPD, DSD and TD have no adverse comments on the technical aspects.
- 10.5 One public comment on the application has been received with concerns on proposed land filling and potential adverse sewerage impact brought by the proposed redevelopment as set out in paragraph 9. In this regard, paragraphs 10.3 and 10.4 above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the public comment in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the planning permission shall be valid until 18.12.2024, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

the provision of fire service installations and water supplies for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

- 11.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

the proposed development is not in line with the planning intention of "CPA" zone which is to protect and retain the existing natural landscape, ecological or topographical features of the area for conservation, educational and research purposes and to separate sensitive natural environment from the adverse effects of development. There is no strong justification in the submission to warrant a departure from such planning intention.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 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.

13. Attachments

Appendix I	Application form
Appendix Ia	Supporting Planning Statement received on 28.10.2020
Appendix Ib	Letter received on 9.11.2020
Appendix II	Public Comments received during the Statutory Publication Periods
Appendix III	Advisory Clauses
Drawing A-1	Indicative Schematic Drawing (Site Plan)
Drawing A-2	G/F Plan
Drawing A-3	1/F Plan
Drawing A-4	Roof Plan
Drawing A-5	Section
Drawing A-6	Indicative Landscape Drawing
Drawing A-7	Schematic Design (Section)
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4 to A-5	Site Photos