

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATIONS NO. A/TP/658 and 659

- Applicants** : Mr. WONG Choi Ping (Application No. A/TP/658)
Ms. May CHAN (Former name: CHAN Chiu Yee) (Application No. A/TP/659)
both represented by R-riches Property Consultants Limited
- Sites** : Lot 20 (Application No. A/TP/658)
Lot 24 S.C (Application No. A/TP/659)
all in D.D.12, Ha Hang, Tai Po, New Territories
- Site Areas** : Both about 40 m²
- Lease** : Block Government Lease (Application No. A/TP/658)
(recorded as Latrine)
Block Government Lease (Application No. A/TP/659)
(recorded as House)
- Plan** : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
- Zoning** : “Green Belt” (“GB”)
- Applications** : Proposed New Territories Exempted House (NTEH) on each of the application sites

1. The Proposals

- 1.1 The applicants seek planning permissions to build an NTEH on each of the application sites (the Sites) (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH)’ use in the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 Details of the each of the proposed NTEH are as follows:

Total floor area	:	120m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	40m ²

- 1.3 Layout of the proposed NTEHs including septic tanks are shown on **Drawings A-1a and A-1b**.
- 1.4 The Sites are the subject of two previous applications (No. A/TP/263 and 264) for NTEH developments submitted by the same applicants, which were approved by the Rural and New Town Planning Committee (the Committee) on 8.9.2000 with validity up to 8.9.2003 (**Plan A-2**).
- 1.5 In support of the applications, the applicants have submitted application forms dated 19.9.2018 with attachments (**Appendices Ia and Ib**) including a Geotechnical Planning Review Report (GPRR) (**Appendix Ic**).

2. Justifications from the Applicants

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

- (a) the applicants have submitted the rebuilding applications to Lands Department (LandsD) about 20 years ago but there are no major progress until now; and
- (b) the Sites are the subject of two previous applications (No. A/TP/263 and 264) for the same use approved by the Committee in 2000 with validity up to 2003.

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

The applicants are the sole “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. The latest set of Interim Criteria was promulgated on 7.9.2007 and 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 these applications. The relevant assessment criteria are summarized below:

- (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;

- (c) applications for NTEHs 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; and
- (f) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Applications

- 6.1 The Sites are the subject of two previous applications (No. A/TP/263 and 264) (**Plan A-2**) submitted by same applicants for the same use, which were approved with conditions by the Committee on 8.9.2000 under exceptional circumstances that the site had a building status under the lease. The planning permissions subsequently lapsed on 9.9.2003.
- 6.2 Compared with the previous applications, the footprint and development parameters of the proposed NTEHs under current applications remain the same.
- 6.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

7. Similar Applications

- 7.1 There are seven similar applications (No. A/TP/297, 298, 358, 359, 403, 456 and 457) for Small House development in the vicinity of the Sites and within the same "GB" zone since the first promulgation of the Interim Criteria on 24.11.2000 (**Plan A-1**).
- 7.2 Six of them (Applications No. A/TP/297, 298, 358, 403, 456 and 457) were approved with conditions by the Committee between 2002 and 2010 mainly on the grounds that the proposed developments were in line with the Interim Criteria in that more than 50% of the footprint of the Small House was located within the village 'environs' ('VE')/'V' zone and there was a general shortage of land to meet the demand for Small House development in the concerned

“V” zone at the time of consideration. Applications No. A/TP/456 and 457 were also approved for the reason of being the subject of previously approved applications (No. A/TP/297 and 298) submitted by the same applicants.

7.3 For the remaining application (No. A/TP/359), it was rejected by the Committee in 2005 mainly on the grounds of being not in line with the planning intention of the “GB” zone; not complying with the Interim Criteria in that the proposed development was located outside both the ‘VE’ and the “V” zone of concerned village; and setting of undesirable precedent.

7.4 Details of the above similar applications are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Sites are:

- (a) situated on a wooded slope with no proper access, currently vacant and covered with shrubs/groundcovers; and
- (b) located about 60m and 75m to the northeast of village proper of Ha Hang.

8.2 The surrounding areas are predominantly rural in character comprising of village houses and natural woodland. The nearest village house is found about 30m and 50m to the southeast of the Sites.

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

Land Administration

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

- (a) no in-principle objection to the applications;
- (b) the registered area of Lot 20 in D.D. 12 is not available but is recorded as a Latrine Lot in the Block Government Lease (BGL) Schedule. Latrine Lot can be regarded as having building status. The registered

area of Lot 24 (i.e. the mother lot of 24 S.C) in D.D. 12 is not available but is recorded as House in BGL Schedule;

- (c) the Sites are within the 'VE' of Ha Hang;
- (d) the Sites are not covered by any Modification of Tenancy/building licence; and
- (e) if and after planning approval has been given by the Board, LandsD will process the establishing missing lots and rebuilding applications received. However, there is no guarantee at this stage that such applications could be approved. If the rebuilding applications are approved by LandsD acting in the capacity as landlord at its sole discretion, such approvals will be subject to such terms and conditions as may be imposed by LandsD. There is no guarantee to the grant of right of way to the developments concerned or approval of the emergency vehicular access thereto.

Traffic

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

- (a) in general, he has reservation on the applications. Such type of developments should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed developments are not expected to be significant, such type of development outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding, he considers the applications only involve development of two NTEHs at the Sites can be tolerated unless they are rejected on other grounds.

Environment

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

- (a) no objection to the applications; and
- (b) septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" and are duly certified by an Authorized Person.

Landscape

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

- (a) has some reservation on the applications from landscape planning point of view;
- (b) the Sites are surrounded by mature woodlands. Existing village houses are concentrated within the “V” zone to the southeast of the Sites. There is no existing proper footpath between the Sites and Ha Hang Village nearby;
- (c) the Sites are situated in an area of rural landscape character comprising of natural woodland and village houses. Although the proposed developments are not in line with the planning intention of the “GB” zone, they are not incompatible with the surrounding environment;
- (d) the Sites are vacant and covered with shrubs and groundcovers. A dry ditch is observed within the Site. Whilst no existing tree is found within the site of Application No. A/TP/658, one young *Dimocarpus longan* (龍眼) is recorded adjoining the site boundary of Application No. A/TP/659. Significant adverse impact arising from the proposed developments on landscape resources within the Sites are not anticipated. However, noting that the Sites are not connected with any existing proper footpath nor vehicular access, and no information on the construction access and future access is provided by the applicants, the potential impact on surrounding landscape resources by the construction access and future access cannot be ascertained. Moreover, approval of these applications would encourage similar developments in the area, which would cause adverse landscape impact to the area resulting in degradation of landscape character; and
- (e) since the footprint of the proposed NTEHs cover the entire site, there is no space for landscaping within each of the Sites. Should the applications be approved by the Board, the standard condition on submission and implementation of landscaping proposal is not recommended.

Drainage and Sewerage

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

- (a) no in-principle objection to the applications from public drainage viewpoint;
- (b) should the applications be approved, a condition should be included to request the applicants to submit and implement the drainage proposal for the Sites to ensure that they will not cause adverse drainage impact to the adjacent area;

- (c) there is no public stormwater drain maintained by DSD in the area. The proposed developments should have their own stormwater collection and discharge systems to cater for the runoff generated within the Sites and overland flow from other areas surrounding the Sites. Any existing flow path should be re-provided. The proposed developments should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas. The applicants/owners should maintain such systems properly and rectify the systems if found to be inadequate or ineffective during operation. The applicants/owners shall also be liable for and indemnify claims and demands arising out of damage or nuisance caused by failure of the systems. Furthermore, the new systems will not be managed nor maintained by DSD;
- (d) there are DSD's public sewers in the area (over 30m from the developments), and there is no information whether any stud pipe has been reserved for the subject lots or not. In addition, to ensure the sustainability of the public sewerage network, should the proposed developments be connected to public sewerage network, the applicants/owners are required to demonstrate to the satisfaction of DSD in such manner that the runoff within the Sites will be served by a designated stormwater collection and discharge system and shall not be drained to the public sewerage network, and the applicants/owners will be required to submit details of the proposed sewerage connection works and concurrently provide further information on the runoff collection and discharge system; and
- (e) the applicants should take all precautionary measures to prevent any disturbance, damage, and pollution from the developments to any parts of the existing drainage facilities in the vicinity of the Sites. In the event of any damage to the existing drainage facilities, the applicants should be responsible for the cost of all necessary repair works, compensation and any other consequences arising therefrom. For works to be undertaken outside the lot boundary, prior consent and agreement from LandsD and/or relevant private lot owners should be sought.

Nature Conservation

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

- (a) has reservation on the applications from nature conservation point of view;
- (b) the Sites are located within a woodland on steep terrain in a valley and are away from existing houses and lacking any form of access. The proposed NTEHs would necessitate extensive clearance of vegetation on Government land and within the "GB" zone; and

- (c) suspected unauthorized tree felling was observed at/in the close vicinity of the Sites in 2018. The Board should note whether the applications would constitute ‘destroy first, build later’.

Fire Safety

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

- (a) no in-principle objection to the applications; and
- (b) the applicants are reminded to observe ‘New Territories Exempted Houses – A Guide to Fire Safety Requirements’ published by the LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

Water Supply

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

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

Geotechnical Aspect

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

- (a) no geotechnical comment on the applications as the applicants have committed in the GPRR to undertake a natural terrain hazard study (NTHS) and to implement mitigation measures, if necessary, as part of the proposed developments; and
- (b) should the applications be approved by the Board, an approval condition on the submission of an NTHS and implementation of the mitigation measures recommended therein, as part of the development, is required.

Electricity Supply

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

- (a) no comment on the applications from electricity supply safety aspect; and

- (b) in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the applications should 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 and/or in the vicinity of the Sites. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation (the Regulation) and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

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

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

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

On 28.9.2018, the applications were published for public inspection. During the first three weeks of the statutory public inspection period, seven public comments on Application No. A/TP/658 and six public comments on Application No. A/TP/659 were received from The Hong Kong Bird Watching Society, World Wide Fund for Nature Hong Kong, Designing Hong Kong Limited and individuals objecting to the applications on the grounds of being not in line with the planning intention of the “GB” zone; not complying with the TPB-PG No. 10; land being still available within the “V” zone for Small House development; having adverse environmental, ecological and landscape impacts; and setting of undesirable precedent.

12. Planning Considerations and Assessments

- 12.1 The applications are for development of an NTEH with a footprint of 40m², GFA of 120m² and 3 storeys (8.23m) at each of the Sites which fall entirely within the “GB” zone (**Plan A-2**). The proposed developments are 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. DAFC has reservation on the applications from nature conservation point of view as the proposed NTEHs would necessitate extensive clearance of vegetation on Government land and within the “GB” zone and suspected unauthorized tree felling was observed at/in the close vicinity of the Sites.
- 12.2 The Sites, situated on the wooded slope on the northeast of the village proper of Ha Hang, are currently vacant and covered by shrubs/groundcovers (**Plans**

A-2 and A-4). The surrounding area is rural in character comprising of natural woodland and village houses. Dense woodland is found in the close vicinity (**Plan A-3**). Though significant adverse impact arising from the proposed developments on landscape resources within the Sites are not anticipated, CTP/UD&L of PlanD has some reservations on the applications as the Sites are not connected with any existing proper footpath nor vehicular access, the potential impact on surrounding landscape resources by the construction access and future access cannot be ascertained. Approval of these applications would encourage similar developments in the area, which would cause adverse landscape impact to the area resulting in degradation of landscape character.

- 12.3 Since the Sites are held under Block Government Lease with building status, such exceptional circumstances merit special consideration of the applications. As advised by the DLO/TP of LandsD, Lot 20 in D.D. 12 (Application No. A/TP/658) is recorded as a Latrine Lot in the Block Government Lease Schedule and Latrine Lot can be regarded as having building status, whereas Lot 24 (i.e. the mother lot of 24 S.C) in D.D. 12 (Application No. A/TP/659) is recorded as House in Block Government Lease Schedule. DLO/TP of LandsD has no in-principle objection to the applications. It has been the existing practice of the Board to take into account the building entitlement under the lease in considering the planning application. As each application would be considered on its individual merits, approval of the subject applications would unlikely set an undesirable precedent for similar applications within the “GB” zone.
- 12.4 CE/MN, DSD advises that the Sites are within an area where connections to existing sewerage networks are available in the vicinity (**Plan A-2**) but there is no information whether any stud pipe has been reserved for the subject lots or not. Nonetheless, DEP has no objection to the applications and advises 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 ProPECC PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person. Besides, C for T has general reservations on the applications as such developments should be confined within “V” zone as far as possible but considers the applications only involving development of two NTEHs at the Sites can be tolerated. Furthermore, as the applicants have committed in the GPRR (**Appendix Ic**) to undertake an NTHS and to implement mitigation measures, if necessary, as part of the proposed developments, H(GEO) of CEDD has no geotechnical comment on the applications. Other relevant Government departments including CHE/NTE of HyD, PM(N) of CEDD and D of FS have no objection to or no adverse comment on the applications.
- 12.5 Regarding the Interim Criteria (**Appendix II**), more than 50% of the footprint of the proposed NTEHs fall within the ‘VE’ of Ha Hang. Apart from DAFC and CTP/UD&L of PlanD, other concerned Government departments have no objection to or adverse comment on the applications. Besides, the Sites are the subject of previously approved applications (No. A/TP/263 and 264) submitted by the same applicants with no change to the site boundary, footprint and other development parameters of the proposed NTEHs, which were approved by the

Committee in 2000 based on exceptional circumstances in that the sites had a building status under the lease. It is noted that the establishing missing lots and rebuilding applications are still being processed by LandsD and beyond the control of the applicants. In this regard, special consideration could be given to the current applications.

- 12.6 There are seven similar applications for Small House development within the same “GB” zone and in the vicinity of the Sites (**Plan A-2**). Six of them (Applications No. A/TP/297, 298, 358, 403, 456 and 457) were approved between 2002 and 2010 mainly on the grounds of complying with the Interim Criteria in that more than 50% of the footprint of the Small House was located within the ‘VE’/’V” zone and there was a general shortage of land to meet the demand for Small House development in the concerned “V” zone at the time of consideration; and/or being the subject of previously approved applications. For the rejected application (No. A/TP/359), it was rejected in 2005 mainly on the grounds of being not in line with the planning intention of the “GB” zone; not complying with the Interim Criteria in that the proposed development was located outside both the ‘VE’ and the “V” zone of concerned village; and setting of undesirable precedent. The circumstances of the above similar applications are not similar or relevant to the subject application.
- 12.7 Regarding the seven public comments objecting to the applications mainly on the grounds of being not in line with the planning intention of the “GB” zone; not complying with the TPB-PG No. 10; land being still available within the “V” zone for Small House development; having adverse environmental, ecological and landscape impacts; and setting of undesirable precedent, 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 has no objection to the applications.
- 13.2 Should the Committee decide to approve the applications, it is suggested that each of the permissions shall be valid until **16.11.2022**, 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;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and

- (c) the submission of a natural terrain hazard study and the implementation of the mitigation measures identified therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses for each of the permissions are attached at **Appendix VI**.

13.3 Alternatively, should the Committee decide to reject the applications, the following reasons for rejection are suggested for Members' reference:

- (a) 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 this zone. There is no strong planning justification in the current 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 vegetation and generate adverse landscape impact to the area; and
- (c) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area.

14. Decision Sought

- 14.1 The Committee is invited to consider the applications and decide whether to grant or refuse to grant permissions.
- 14.2 Should the Committee decide to approve the applications, Members are invited to consider the approval conditions and advisory clauses to be attached to the permissions, and the date when the validity of the permissions should expire.
- 14.3 Alternatively, should the Committee decide to reject the applications, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix Ia Application forms and attachment received on 19.9.2018
(A/TP/658)

Appendix Ib	Application forms and attachment received on 19.9.2018 (A/TP/659)
Appendix Ic	Geotechnical Planning Review Report received on 26.9.2018
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	Previous applications
Appendix IV	Similar applications
Appendix V	Public comments
Appendix VI	Recommended advisory clauses
Drawing A-1a	Layout plan submitted by the applicant (A/TP/658)
Drawing A-1b	Layout plan submitted by the applicant (A/TP/659)
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2018**