

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

**APPLICATION NO. A/TP/661**

<b><u>Applicant</u></b>	Mr. Leung Ting Che represented by CHIH Design Ltd.
<b><u>Site</u></b>	Lot 2087 in D.D. 6, Pun Chun Yuen Road, Tai Po, N.T.
<b><u>Site Area</u></b>	2,280m <sup>2</sup> (about)
<b><u>Lease</u></b>	Private lot held under New Grant No. 12549  (a) to expire on 30.6.2047  (b) restricted to non-industrial purpose for development of 2 buildings of not more than 3 storeys, a height of 8.23m and a total gross floor area (GFA) of 366m <sup>2</sup> and a maximum roofed-over-area of 61m <sup>2</sup> for each building
<b><u>Plan</u></b>	Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
<b><u>Zoning</u></b>	“Green Belt” (“GB”)
<b><u>Application</u></b>	Proposed House (Redevelopment)

**1. The Proposal**

- 1.1 The applicant, owner of the application site, seeks planning permission to rebuild two existing 3-storey houses into a single 3-storey house with a total GFA of 398m<sup>2</sup>, building height of 9m and two parking spaces. The application site (the Site) comprises a New Grant lot which falls within an area zoned “GB” on the approved Tai Po OZP No. S/TP/28 (**Plan A-1**). According to the Notes of the OZP, ‘House’ (except for rebuilding of New Territories Exempted House or replacement of existing domestic building by New Territories Exempted House only) within the “GB” zone requires planning permission from the Town Planning Board (the Board).
- 1.2 The floor plans and section plan of the proposed development are at **Drawings A-1** to **A-4**. Part of the open area of the Site will be landscaped and the existing swimming pool will be retained. The Schematic Landscape Master Plan and Schematic Perspective Plan are at **Drawings A-5** and **A-6**. According to the applicant, the current application is identical to a previous scheme (Application No. A/TP/539) approved by the Rural and New Town Planning Committee (the Committee) on 22.11.2013.

- 1.3 In support of the application, the applicant has submitted application form 26.11.2018 (**Appendix I**), a planning statement (**Appendix Ia**) and supplementary information received on 30.11.2018 (**Appendix Ib**).
- 1.4 The Site is the subject of four previous applications (No. A/TP/516, 530, 539 and 548) submitted by the same applicant. Details of these previous applications are provided in paragraph 5 below. A comparison table showing the major development parameters of the existing development, the previous application (No. A/TP/539) and the current application is below:

	Existing	Previous Application (No. A/TP/539) (a)	Current Application (No. A/TP/661) (b)	Change (b) – (a)
Site Area	2,280m <sup>2</sup>	2,280m <sup>2</sup>	2,280m <sup>2</sup>	No change
Total GFA	398m <sup>2</sup> (including 32m <sup>2</sup> balcony/ canopy)	398m <sup>2</sup> (including 32m <sup>2</sup> balcony/ canopy)	398m <sup>2</sup> (including 32m <sup>2</sup> balcony/ canopy)	No change
Plot Ratio	0.175	0.175	0.175	No change
Site Coverage	5.8%	5.8%	5.8%	No change
Building Height	8.23m	9m	9m	No change
No. of Storeys	3	3	3	No change
No. of House(s)	2	1	1	No change
No. of Parking Spaces	Nil	2	2	No change

## 2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the planning statement (**Appendix Ia**). They can be summarized as follows:

- (a) the application is to pursue an identical proposal which was approved in 2013 under Application No. A/TP/539. Despite the applicant has proceeded to pursue the proposed scheme under Application No. A/TP/539 when the application was approved in 2013, the building plan submissions were rejected by the Building Authority on the right of way issue. The planning permission subsequently lapsed in 2017;
- (b) there is no change in planning circumstances and planning intention of the Site and the surrounding area since 2013; and
- (c) the application is simply to reflect an architectural design change to cater for a single-family house. The density, site coverage and building height (in terms of number of storeys) are identical to the approved scheme under Application No. A/TP/539 and the existing development, a comparison table of the development parameters provided by the applicant is at **Appendix II**.

### **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’ are relevant to this application. The relevant criteria include:

- (a) 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 New Territories Exempted Houses, a plot ratio up to 0.4 for residential development may be permitted;
- (b) redevelopment of existing residential development will generally be permitted up to the intensity of the existing development; and
- (c) 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.

### **5. Previous Applications**

- 5.1 The Site is the subject of four previous applications (No. A/TP/516, 530, 539 and 548) submitted by the same applicant.
- 5.2 Application No. A/TP/516 for redevelopment into two 3-storey houses with a GFA of 398m<sup>2</sup> (including 32m<sup>2</sup> balcony/canopy), a building height of 9m and a site coverage of 5.8% was approved with conditions by the Committee on 4.5.2012 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development. That planning permission has lapsed on 5.5.2016.
- 5.3 Application No. A/TP/530 for a 2-storey house with a GFA of 398m<sup>2</sup>, a building height of 8m and a site coverage of 11.8% was rejected by the Board on review on 23.8.2013, mainly on the grounds that the application did not comply with the TPB-PG No. 10 in that the proposed development intensity would exceed that of the existing development, and that approval of the application would set an undesirable precedent for similar development within the “GB” zone.
- 5.4 Application No. A/TP/539 for a 3-storey house with a GFA of 398m<sup>2</sup> (including 32m<sup>2</sup> balcony/canopy), a building height of 9m and a site coverage of 5.8% as the approved scheme (No. A/TP/516) was approved with conditions by the Committee on 22.11.2013 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development. That planning permission has lapsed on 23.11.2017.

- 5.5 Application No. A/TP/548 for a 2-storey house with a GFA of 380m<sup>2</sup> (including 32m<sup>2</sup> balcony/canopy) and a building height of 7.45m and a site coverage of 8.7% was approved with conditions by the Committee on 4.4.2014 mainly on the grounds that the proposed redevelopment was basically in compliance with TPB-PG No. 10 in which redevelopment of existing residential development would generally be permitted up to the intensity of the existing development.
- 5.6 Details of the above previous applications together with a summary of their development parameters are at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

## **6. Similar Application**

There is no similar application for house redevelopment within the same “GB” zone.

## **7. The Site and its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)**

7.1 The Site is:

- (a) fenced and occupied by two existing houses and a swimming pool; and
- (b) accessible via Pun Chun Yuen Road.

7.2 To the east and to the north across Pun Chun Yuen Road are village houses and temporary structures among trees and vegetation. To the south is a natural slope with lush trees and shrubs. To the southwest is a private lot (Lot No. 1061 R.P.) owned by the applicant which is used as a landscaped garden. Tai Po Water Treatment Works is about 200m to the northwest.

## **8. 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.

## **9. Comments from Relevant Government Departments**

9.1 The following government departments have been consulted and their views are summarized as follows:

### **Land Administration**

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

- (a) no objection to the application;
- (b) Lot 1061 in D.D.6 was granted on 12.5.1926 with an area of 1,250 sq. ft. of House land and 0.83 ac. (about 36,155 sq. ft.) of agricultural land. The subject lot with a site area of 2,280m<sup>2</sup> was granted by way of an in-situ land exchange under New Grant No. 12549 dated

9.5.1991 for non-industrial purpose is currently subject to the following development restrictions:

- restricted for the development of two buildings of not more than 3 storeys, a height of 8.23m and a total GFA of 366m<sup>2</sup>;
  - the maximum roofed-over-area (ROA) of each building shall not exceed 61m<sup>2</sup>;
  - 2 balconies and 1 canopy all projecting from the same side of each building for a distance of not more than 1.22m are excluded from GFA and ROA calculations;
  - an open-air swimming pool is permitted within the pink cross-hatched black area of the lot and it is excluded from GFA and ROA calculations;
  - no structure other than boundary wall or fence shall be erected on the pink hatched black area (i.e. the non-building area); and
  - no guarantee of any right-of-way to the lot;
- (c) the proposed 3-storey single family house with a height of 9m, total GFA of 398m<sup>2</sup>, site coverage of 5.8% and encroaching upon the pink hatched black area of the lot is in breach of the lease conditions. If planning approval from the Board is given, the applicant is required to apply for lease modification for implementation of the development proposal. However, there is no guarantee that such application will be approved. If it is approved by LandsD acting in its capacity as the landlord at its absolute discretion, it will be subject to such terms and conditions, including, amongst others, payment of premium and administrative fee, as may be imposed by LandsD;
- (d) he reserves his comments on the detailed design of the proposed house at building plan submission stage; and
- (e) site inspection revealed that boundary walls and fences of the subject lot are erected on the adjoining government land and there is unauthorised occupation of government land. Land control action will be taken according to priority.

### **Landscape and Visual**

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

#### **Landscape**

- (a) he has no objection to the application from the landscape planning perspective;
- (b) the Site is the subject of four previous planning applications (No. A/TP/516, 530, 539 and 548). The latest applications (No. A/TP/539 and 548) from the same applicant for the same use were approved by the TPB on 22.11.2013 and 4.4.2014 respectively, to which he had no objection from the landscape planning perspective. In comparison with the approved scheme in No. A/TP/539, there is no change in terms of site area, building height and site coverage of the proposed house in the current application. Significant adverse landscape

impact due to the proposed house is not anticipated; and

- (c) the Site is located in the midst of “GB” zone mostly surrounded by lush trees and shrubs and the proposed development (with an area of about 2,280 m<sup>2</sup>), as shown on the schematic landscape plan, is largely hard paved with only minimal greening, it is considered desirable to provide more greening in order to be more compatible with the landscape setting of the “GB” zone. In this regard, the following approval condition is recommended should the application be approved by the Board:

submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board.

### **Traffic**

#### 9.1.3 Comments of the Commissioner for Transport (C for T):

with reference to the previously approved application No. A/TP/539, it is noted that there is no change in site area, number of storeys/building height, GFA, site coverage, disposition of the building block and provision of car parking spaces of the proposed house in the current application. As the application is only a redevelopment without generating additional traffic, and there is no change in relation to traffic engineering, he has no in-principle objection to the application.

### **Drainage**

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

- (a) no objection in principle to the application from public drainage viewpoint;
- (b) if the application is approved, a condition should be included to request the applicant to submit and implement the drainage proposal for the Site to the satisfaction of Director of Drainage Services or the Board to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) there is no public drain managed by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from surrounding of the Site. The proposed development is located on the unpaved ground which will increase the impervious area, resulting in a change of the flow pattern and an increase of the surface runoff and thus the flooding risk in the area. The applicant should take this into account when preparing the drainage proposal. The applicant/owner is also required to maintain such systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicant/owner shall also be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;

- (d) the applicant should design the drainage proposal based on the actual site conditions for DSD's comment/agreement. DSD would not assist the lot owner/developer on the drainage proposal. In the design, the applicant should consider the workability, the impact to the surrounding environment and seek comments from other concerned parties/departments if necessary. The applicant should make sure no adverse impact will be caused to the area due to the proposed works. The existing natural streams, village drains, ditches and the adjacent areas should not be adversely affected; and
- (e) there is no public sewer connection available in the vicinity of the proposed development, views and comments from the Director of Environmental Protection should be sought regarding the sewage disposal arrangement of the proposed development.

### **Water Supply**

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

- (a) no objection to the application;
- (b) for provision of water supply to the proposed development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant 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 standards; and
- (c) the Site falls within the consultation zone of Tai Po Tau and Tai Po Water Treatment Works, which is a potentially hazardous installation (PHI). The Environmental Protection Department should be consulted in this respect.

### **Environment**

#### 9.1.6 Comment of the Director of Environmental Protection (DEP):

- (a) no objection to the application from environmental planning and chlorine risk point of view;
- (b) the Site is outside Water Gathering Ground. In view of there is no change in development parameters as compared to the previous approved scheme under Application No. A/TP/539, the application alone is unlikely to cause major pollution; and
- (c) although the Site falls within the consultation zone of the Tai Po Water Treatment Works, the proposed redevelopment is unlikely subject to any hazard to life concerns due to chlorine storage, transport and usage. Subject to the confirmation that there will be no population increase from the redevelopment, he considers that the redevelopment is unlikely to be subject to any major hazard to life concerns.

### **Fire Safety**

#### 9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) based on the submitted information, he has no specific comment on the application subject to fire service installations and water supplies for fire fighting being provided to the satisfaction of the D of FS; and
- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans. The arrangement of emergency vehicular access should comply with Section 6, Part D of the Code of Practice for Fire Safety in Building 2011 which is administered by the Buildings Department;

### **Nature Conservation**

#### 9.1.8 Comment of the Director of Agriculture, Fisheries and Conservation (DAFC):

the Site is a piece of vacant land with two existing houses. There are two mature trees within the site, including a *Cinnamomum camphora* (樟樹) at the western corner and a *Ficus microcarpa* (榕樹) at the northern corner. It is understood that no tree felling is required. As such, he has no strong view on the application from nature conservation point of view.

### **Building Aspect**

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

- (a) no in-principle objection to the application under the Buildings Ordinance (BO);
- (b) the applicant's attention is drawn to the following:
  - (i) there is no record of approval by the Building Authority for the structures existing at the Site;
  - (ii) if the existing structures are New Territories Exempted House (NTEH) under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap 121 or the previous Cap 322), DLO/TP should be in a better position to comment on the application;
  - (iii) before any new building works are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
  - (iv) if the existing structures are 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;



- (v) for UBW erected on leased land, enforcement action may be taken by 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;
- (vi) in connection with (iii) above, 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) Regulations (B(P)R) at the building plan submission stage;
- (vii) if the site abuts on a specified street of not less than 4.5m wide, its permitted development intensity shall be within the permissible plot ratio and site coverage as stipulated in the First Schedule of B(P)R. Otherwise, its permitted development intensity shall be determined under B(P)R 19(3) at the building plan submission stage;
- (viii) the sustainable building design requirements and the pre-requisites under PNAP APP-151 & 152 for GFA concessions would be applicable to the redevelopment. In this connection, any non-mandatory or non-essential plant rooms of the development may be countable for GFA under the BO subject to their compliance with the above PNAPs;
- (ix) foul water should not be discharged to nearby stream course; and
- (x) formal submission of any proposed new building works for approval and consent under BO is required. Detailed consideration will be made at the building plan submission stage.

### **Geotechnical**

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

It is noted that a number of registered features (Features Nos. 7/NW-A/R55, 7NW-A/F48 and 7NW-A/C76) are located close to the Site. The applicant is reminded to submit necessary Geotechnical Submission to the relevant Authority at a later stage.

### **Electricity Supply and Safety**

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

- (a) has no comment on the application from electricity supply safety aspect; and
- (b) 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 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 Site, the applicant shall carry out the following measures:

- (i) for application site within the preferred working corridor of high voltage overhead lines at transmission voltage level 132kV and above as stipulated in the Hong Kong Planning Standards and Guidelines, prior consultation and arrangement with CLP Power is necessary;
- (ii) prior to establishing any structure within the 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; and
- (iii) 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.

9.2 The following government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department; and
- (b) District Officer/Tai Po, Home Affairs Department.

## **10. Public Comment Received During Statutory Publication Period**

On 4.12.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received (**Appendix IV**). The commenter points out that there was a public comment objecting to the previous application on the grounds that the proposed redevelopment would be converted into a columbarium. The commenter also expresses concerns on possible vegetation clearance in “GB” zone and suspects “destroy first and build later”.

## **11. Planning Considerations and Assessments**

11.1 The application is for redevelopment of two existing 3-storey houses into a single 3-storey house within the “GB” zone. 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. Although the proposed development is not in line with the planning intention of “GB” zone, according to the TPB-PG No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances while redevelopment of existing residential development will generally be permitted up to the intensity of the existing development. As the subject site is a New Grant lot with building entitlement and the application is for house redevelopment with a total GFA not exceeding that of the existing houses (i.e. 398m<sup>2</sup> including 32m<sup>2</sup> balconies/canopies), the application may be considered under exceptional circumstances.

- 11.2 According to the applicant, the two existing houses on site have a total GFA of 398m<sup>2</sup> (including 32m<sup>2</sup> balconies/canopies). The applicant proposes to redevelop the two existing 3-storey houses with 8.23m in height and site coverage of 5.8% into a 3-storey single house with a total GFA of 398m<sup>2</sup> (including 32m<sup>2</sup> balconies/canopies), site coverage of 5.8% and building height of 9m. The proposed development parameters under the current application are identical to the previously scheme under Application No. A/TP/539 approved in 2013. The proposed redevelopment is considered in compliance with TPB-PG No. 10 in which redevelopment of existing residential development will generally be permitted up to the intensity of the existing development, i.e. a total GFA of 398m<sup>2</sup> (including 32m<sup>2</sup> of balconies/canopies) in the instant case. Both DLO/TP, LandsD and CBS/NTW, BD have no in-principle objection to the application.
- 11.3 The surrounding areas are predominantly rural in character with village houses of 3 storeys in height at most and temporary structures. The proposed development is not incompatible with the surrounding environment. Relevant Government departments consulted, including C for T, DEP, CE/MN, DSD, D of FS, DAFC and CTP/UD&L, PlanD, have no objection to or adverse comments on the application.
- 11.4 Regarding the concerns raised in the public comment, there is no indication that the proposed house redevelopment would be converted into a columbarium use. As for other aspects, Government departments' comments and the planning assessments above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 18.1.2023, 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 landscape proposal to the satisfaction of the Director of Planning 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 provision of fire service installations and water supplies for fire fighting 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 IV**.

- 12.3 There is no strong reason to recommend rejection of the application.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 13.2 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.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

**14. Attachments**

Appendix I	Application Form received on 26.11.2018
Appendix Ia	Planning Statement
Appendix Ib	Supplementary Information received on 30.11.2018
Appendix II	Comparison Table submitted by the Applicant
Appendix III	Previous Planning applications
Appendix IV	Public Comment
Appendix V	Recommended Advisory Clauses
Drawings A-1 to A-3	Floor Plans
Drawing A-4	Section Plan
Drawing A-5	Landscape Master Plan
Drawing A-6	Schematic Perspective Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos