

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TWW/124

- Applicant** : Max Property Limited represented by A&D Surveyors Ltd.
- Site** : Lot 162RP (Part) in D.D. 399 and adjoining Government land, Castle Peak Road – Ting Kau, Tsuen Wan West
- Site Area** : About 580m²
(including about 151m² (about 26%) of Government land)
- Lease** : Lot 162RP in D.D. 399
(a) Old Schedule agricultural lot held under Block Government Lease
(b) To be expired on 30.6.2047
- Plan** : Draft Tsuen Wan West Outline Zoning Plan (OZP) No. S/TWW/20
[Approved Tsuen Wan West OZP No. S/TWW/19 at the time of submission of the application. Zoning and development restrictions of the application site remain unchanged.]
- Zoning** : **“Residential (Group C)” (“R(C)”)** (about 53%)
(a) maximum plot ratio (PR) of 0.4 and a maximum building height (BH) of 3 storeys including car park, or the PR and the height of the existing building whichever is the greater
(b) the PR may be increased to a maximum of 0.75 upon s.16 application, provided that the noise impact from Castle Peak Road on the proposed development would be mitigated
(c) ‘House’ is Column 1 use

“Village Type Development” (“V”) (about 47%)
(d) maximum BH of 3 storeys (8.23m) or the height of existing building, whichever is greater
(e) ‘House (not elsewhere specified)’ is Column 2 use
- Application** : Proposed House Development with PR of 0.75 and Minor Relaxation of BH Restriction in “V” Zone

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed 3-storey house development comprising two 2-storey semi-detached houses above an 1-storey communal carpark with a total PR of 0.75 at the application site (the Site) abutting

Castle Peak Road – Ting Kau. The Site falls within an area zoned partly “R(C)” and partly “V” (**Plan A-1**). According to the Notes for “R(C)” zone under the OZP, while ‘House’ is always permitted at a maximum PR of 0.4 and a maximum BH of 3 storeys including car park, the PR may be increased to a maximum of 0.75, provided that the noise impact from Castle Peak Road on the proposed development would be mitigated, upon application to the Town Planning Board (the Board). Whereas within “V” zone, ‘House (not elsewhere specified)’ requires planning permission from the Board (‘House (New Territories Exempted House (NTEH) only)’ is always permitted) and is subject to a maximum BH of 3 storeys (8.23m).

- 1.2 The Site abuts Castle Peak Road – Ting Kau. About 53% of the Site falls within the western-most portion of “R(C)” zone, while the remaining 47% falls within the northeastern-most portion of “V” zone, i.e. Ting Kau Village. The Site is located in the middle of the Ting Kau Village village environ boundary (VEB) (**Plan A-1**). The proposed development has a total of three storeys, including 1/F for bedrooms and study room; G/F for living and dining areas, kitchen, landscape gardens and open-air swimming pools; and B/F for a communal carpark, with a BH of 34mPD at main roof level on a mean site formation level of 23.475mPD (**Drawing A-3**). The existing formation level of the Site is at about 16mPD to 20mPD, which is lower than Castle Peak Road at about 25mPD (**Plan A-2**). The applicant proposes to develop the houses on top of a new structural platform with backfilling to align with the level of Castle Peak Road – Ting Kau (**Drawing A-3**). Since the absolute BH of the proposed houses is 10.525m, which exceeds the BH restriction of 8.23m within “V” zone, application for minor relaxation of BH restriction from 8.23m to 10.525m (i.e. 2.295m or +28%) within the “V” zone is required. A vehicular ingress/egress is proposed at Castle Peak Road¹ (**Drawing A-1**). The Site was the subject of a previous application (No. A/TWW/68) by the same applicant for a proposed low-rise and low-density residential development with the same PR and BH and similar mean site formation level of the current scheme, which was approved with conditions by the Board upon review in 2004. Details are set out in paragraph 5 below.

- 1.3 The major development parameters are summarised as follows:

Major Development Parameters	
Site Area	About 580m ² (about 53% in “R(C)” and 47% in “V”)
- Lot 162 RP (Part)	About 429 m ² (about 61% in “R(C)” and 39% in “V”)
- Government Land	About 151 m ² (about 31% in “R(C)” and 69% in “V”)
PR	0.75
Gross Floor Area (GFA)	About 435m ² (including clubhouse of 10.82m ² and owners’ corporation office of 10.82m ²)
Site Coverage (SC)	About 39%
No. of Houses	2 semi-detached houses

¹ A strip of land along the northern application site boundary for amenities and vehicular ingress/egress falls on unleased Government land. According to the applicant’s submission, he would apply to the Lands Department (LandsD) for land exchange after obtaining planning approval. The Highways Department (HyD) and the Transport Department (TD) would be consulted on the responsibility for the maintenance and management of access area during the land exchange application. Nevertheless, the applicant would take up the responsibility of construction and future maintenance and management of the aforesaid area.

Floor-to-floor Height	3.5m to 4m
Maximum BH (at main roof level)	
- in m	- 10.525m (<i>measured from mean site formation level of 23.475mPD</i>)
- in mPD	- 34mPD
No. of Storeys	2 storeys for each house above 1 storey of basement communal car park
Car Parking Spaces	5 including 1 for visitor

1.4 According to the Landscape Impact Assessment and Landscape Proposal (**Drawing A-6**), the Site is mainly covered by weeds, trees and other vegetation with low conservation value. All 17 existing trees of common species within the Site (**Drawing A-5**) are considered not suitable for transplanting and are proposed to be felled. Mitigation measures proposed by the applicant include compensatory tree planting within the Site at a ratio of 1:1 and incorporation of vertical green wall along the boundaries of the Site facing the slope, i.e. the new retaining walls built on the structural platform (**Drawing A-10**).

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 28.9.2022 (Appendix I)
- (b) Planning Statement received on 28.9.2022 (Appendix Ia)
- (c) Supplementary Information received on 7.10.2022 (Appendix Ib)
- (d) Further Information 1 (FI 1) received on 20.1.2023# (Appendix Ic)
- (e) FI 2 received on 3.3.2023* (Appendix Id)
- (f) FI 3 received on 13.3.2023* (Appendix Ie)

Remarks:

* FI accepted and exempted from publication and recounting requirements

FI accepted but not exempted from publication and recounting requirements

1.6 At the request of the applicant, the Metro Planning Committee (the Committee) of the Board on 25.11.2022 agreed to defer a decision for a period of two months so as to allow more time for the applicant to submit FI to address departmental comments. Upon receipt of the FI on 20.1.2023, the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and technical assessments at **Appendices Ia, Ic to Ie** which are summarised as follows:

Proposed residential development is compatible to the planning intention

- (a) The proposed low-rise and low-density residential development with a maximum PR of 0.75, which is the same development intensity as recommended in the Remarks of the Notes for “R(C)” zone under the OZP, fully conforms with the Government’s general planning intention in keeping the low-rise and low-density

development characteristics in Ting Kau. The proposed development is considered compatible with its surrounding context.

Insignificant impact on supply of small house sites in the area

- (b) The applicant is not an indigenous villager and is not entitled to apply for NTEH development within “V” zone portion of the Site. The proposed development would not cause any adverse impact on the supply of NTEH sites at Ting Kau in “V” zone.

Minor Relaxation of BH would enable a coherent design

- (c) Minor relaxation of BH in the “V” zone portion of the Site will enable the entire Site to be developed on a consistent basis across two zones.
- (d) The Site is a Class A site with BH of 10.5m, PR of 0.75 and SC of 39%, which are less than those permitted in Building (Planning) Regulations with maximum PR of 3.3 and SC of 66.6% for domestic building. The slight BH increase of 2.295m strikes a balance between the development parameters with lower PR and SC which reduces the building bulk and development intensity and enhances better permeability.

Increase in BH would not create adverse visual impact

- (e) Located in the northern-most of Ting Kau Village, the proposed increase in BH of 2.295m within “V” zone would not affect or block the sea view of the surrounding village houses. The photomontages submitted (**Drawings A-7 to A-10**) have demonstrated that the proposed development would have similar BH with the adjacent village houses, which would blend in with the character of the surrounding areas and would not cause significant visual impact. Green features incorporated in building design can also alleviate visual impact due to the slight increase of BH.

Approval of previous planning application at the Site in 2004

- (f) The previous planning application (No. A/TWW/68) was approved with conditions by the Board upon review on 20.2.2004. The applicant did not commence the development due to personal reasons and the planning permission lapsed subsequently.

No adverse traffic, environmental and geotechnical impacts

- (g) The Traffic Noise and Air Quality Impact Assessment (TNAQIA) has demonstrated that with the implementation of the proposed mitigation measures (i.e. fixed glazing/maintenance windows and acoustic windows (baffle type)), all noise sensitive receivers of the proposed development would fully comply with the Hong Kong Planning Standards and Guidelines (HKPSG) requirements. Thus, no adverse traffic noise impact is anticipated. In addition, as the buffer distances for traffic emission from surrounding road sections would comply with the HKPSG requirements, no adverse air quality impact is anticipated.

- (h) The submitted Sewerage Impact Assessment (SIA), Drainage Impact Assessment (DIA), Traffic Impact Assessment (TIA) and Geotechnical Planning Review Report (GPRR) have demonstrated that the proposed development would not cause adverse sewerage, drainage, traffic and geotechnical impacts.
- (i) The fung shui woodland of Ting Kau Village, as claimed by the villagers, is located to the south of the Site across an existing footpath (see photo 5 at **Plan A-5**).

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

- 3.1 The applicant is the sole “current land owner” of the private lot. Detailed information would be deposited at the meeting for Members’ inspection.
- 3.2 The “owner’s consent/notification” requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 16 of the Town Planning Ordinance (TPB-PG No. 31A) is not applicable on the Government land portion.

4. Background

- 4.1 The Site has straddled both “R(C)” and “V” zones since the first Tsuen Wan West OZP gazetted on 3.2.1989. The “R(C)” zone was subject to maximum PR of 0.4 and BH of 3 storeys including carport at that time while there was no PR nor BH restrictions for “V” zone.
- 4.2 In the landuse review of Tsuen Wan West undertaken by the Planning Department (PlanD) in 2001, the possible increase of the maximum PR in “R(C)” zone from 0.4 to 0.75 was examined. On 1.6.2001, the Committee noted that the proposed increase of the maximum PR to 0.75 would unlikely cause significant impacts on the existing and planned provisions of infrastructure and supporting facilities, and the only major concern would be the potential traffic noise impact from Castle Peak Road. As such, the Committee agreed to adopt a two-tier PR control where the maximum PR of 0.4 may, upon obtaining planning permission, be increased to a maximum PR of 0.75, provided that the noise impact from Castle Peak Road would be mitigated to the satisfaction of the Board. The two-tier PR control was incorporated on the draft OZP No. S/TWW/12 gazetted on 1.3.2002.
- 4.3 The BH restrictions of 3 storeys (8.23m) was imposed for “V” zone on the draft OZP No. S/TWW/15 gazetted on 5.8.2005 to tally with the standard Remarks of the Notes for “V” zone as agreed by the Board. The zoning and development restrictions of the Site remain unchanged since then.

5. Previous Application

- 5.1 The Site was the subject of a previous application (No. A/TWW/68) (**Appendix II** and **Plan A-2**) for a proposed low-rise and low-density residential development

with PR of 0.75 and a slightly larger site area². On 7.11.2003, the Committee rejected the application for the reasons that the encroachment of the proposed development onto “V” zone was considered not justifiable and not in line with the planning intention of “V” zone; and approval of the application would set an undesirable precedent for similar applications in the area which would undermine the implementation of Small House development within “V” zone.

- 5.2 Subsequently, the applicant lodged a review of the Committee’s decision under section 17(1) of the Ordinance. At the review stage, it was considered by the Board that the nature of the application was more a matter of zoning boundary rectification which, according to the Notes of the OZP, was allowable as minor alterations to boundaries between zones and the merits of an integrated comprehensive development as advocated by the applicant were acceptable (**Appendix III**), the Board approved the application with conditions on 20.2.2004. However, as the development was not commenced by the time limit for commencement of approved development, i.e. 20.2.2008, the planning permission lapsed accordingly.

6. **Similar Applications**

Similar Applications in “R(C)” Zone

- 6.1 Within the “R(C)” zones in the Tsuen Wan West area, there are 18 similar applications on 8 application sites for proposed residential development at a higher PR/GFA (**Appendix IV** and **Plan A-1**) applied under the two-tier PR control.
- 6.2 Among these similar applications, 16 of them were approved with conditions by the Committee or by the Board upon review between 2004 and 2019 considering that the noise impact from Castle Peak Road on the proposed developments would be properly mitigated. There were two rejected similar applications (Nos. A/TWW/88 and A/TWW/112). No. A/TWW/88 for a proposed house development in “R(C)2” zone at a PR of 1.2 was rejected by the Committee on 16.11.2007 for the reasons of unsatisfactory scheme layout, car parking arrangement and landscaped areas. Subsequently, another application No. A/TWW/89 for the same use at the same site was submitted and approved with conditions by the Board upon review on 12.12.2008 based on revised landscape proposal.
- 6.3 Application No. A/TWW/112 for proposed minor relaxation of PR restriction for permitted house development in “R(C)1” zone from 0.75 to 1.0 was rejected by the Board upon review on 1.12.2017 mainly on the grounds that the applicant failed to demonstrate that the access road improvement proposals were necessary to serve the public interest of the local community and were technically feasible;

² Under No. A/TWW/68, the application site area was 643m² (including 228m² of Government land), with about 56% of the application site falling within the “R(C)” zone. The same PR of 0.75 was pursued for three 3-storey houses (including car port / carpark level) developed on two platform levels (mean formation level at about 23.5mPD), resulting in a maximum BH of about 34mPD which is same as that under the current application. There was no BH restriction within “V” zone back then when the OZP No. S/TWW/14 was in force.

the improvement proposals may not be enforceable through approval condition; and the approval of the application would set an undesirable precedent.

Similar Applications in “V” Zone

- 6.4 There is no similar application for proposed non-NTEH developments and/or minor relaxation of BH in “V” zone in the Tsuen Wan West Area.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4 to A-5)

7.1 The Site is:

- (a) partly located within a low-rise and low-density residential cluster zoned “R(C)”, and partly located within “V” zone. It is separated from Ting Kau Village to the south on lower development platforms by natural and man-made cut slopes, a footpath and a public convenience;
- (b) a sloped land mainly vacant and covered with weeds, trees and other vegetation; and
- (c) accessible through Castle Peak Road – Ting Kau.

7.2 The surrounding area has the following characteristics:

- (a) to the east within the same “R(C)” zone are a pavilion, a staircase leading down to Ting Kau Village, and some existing low-rise and low-density residential developments with BHs ranging from 22mPD to 35mPD (at main roof level);
- (b) to the south is a footpath and village settlement of Ting Kau Village;
- (c) to the immediate southwest is a public toilet;
- (d) to the immediate northwest is a public car park; and
- (e) to the north is the Castle Peak Road – New Ting Kau, which is a dual-two lane carriageway. A section of the proposed cycle track between Tsuen Wan Bayview Garden and So Kwun Wat is proposed to be running along this road section, which is subject to detailed design.

8. Planning Intention

- 8.1 The planning intention of the “R(C)” zone is intended primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.
- 8.2 According to the paragraph 9.4.2 of the Explanatory Statement (ES) of the OZP, because of the existing infrastructural constraints and the objectives to conserve

the natural landscape, panoramic sea view as well as to provide greater flexibility without compromising the low-rise, low-density character of “R(C)” sites, development or redevelopment within “R(C)” zone is restricted to the maximum PR and BH stipulated in the Notes. The design of the residential buildings should, in addition to the need to address the traffic noise impact from Castle Peak Road, blend in well with the surroundings in particular with due regard to tree preservation and air ventilation in the development proposals.

- 8.3 The planning intention of the “V” zone is to reflect existing recognised villages and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a NTEH. Other commercial, community and recreational uses may be permitted on application to the Board.
- 8.4 According to the ES of the OZP, a minor relaxation clause in respect of BH restrictions is incorporated in the Notes in order to provide incentive for developments/redevelopments with planning and design merits and to cater for circumstances with specific site constraints. Each application for minor relaxation of BH restriction will be considered on its own merits and the relevant criteria for consideration of such relaxation are as follows:
- (a) amalgamating smaller sites for achieving better urban design and local area improvements;
 - (b) accommodating the bonus PR granted under the Buildings Ordinance in relation to surrender/dedication of land/area for use as a public passage/street widening;
 - (c) providing better streetscape/good quality street level public urban space;
 - (d) providing separation between buildings to enhance air ventilation and visual permeability;
 - (e) accommodating building design to address specific site constraints in achieving permissible PR under the OZP; and
 - (f) other factors such as need for tree preservation, innovative building design and planning merits that would bring about improvements to townscape and amenity of the locality and would not cause adverse landscape and visual impacts.

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Tsuen Wan and Kwai Tsing (DLO/TW&KT), LandsD:

- (a) the proposed development contravenes the existing lease conditions. In the event of implementation of the proposed development upon obtaining planning approval, a land exchange would be required;
- (b) the lot and the adjoining Government land under application fall within the VEB of Ting Kau Village which is a pre-1898 Recognised Village. There is no guarantee that the land exchange application will be processed even if the planning permission is given by the Board. LandsD will exercise its sole discretion in the capacity as the landlord on whether the land exchange application would be entertained and every application will be considered on its own merits. There is no commitment that the proposed site boundary by including additional Government land and the proposed development parameters under the planning application will be acceptable under the land exchange application. In the event that the land exchange application is approved, it will be subject to such terms and conditions as the Government shall deem fit to do so, including, among others, the payment of premium and administrative fee;
- (c) the proposed vehicular access will require the conversion of an existing planter into the proposed run-in/out and new public pavement. The said planter is situated on a piece of unleased and unallocated Government land which is sandwiched between the Site and the existing public pavement of Castle Peak Road – Ting Kau. TD and HyD would be consulted under land exchange stage as the said Government land shall be included as road formation area (e.g. green area) in future land exchange, which may subsequently be managed and maintained by TD and HyD upon completion of the formation works;
- (d) the area of undesignated space in the proposed basement car park is considered excessive and may be GFA accountable during building plan scrutiny under lease. The depth of soil fillings for house development on sloping site would be considered on individual case merits and the Authorised Person's justifications. LandsD reserves comments on the proposed schematic design which would only be examined in detail during the building plan stage upon completion of land exchange. There is no guarantee that the schematic design as presently proposed under the current planning application if reflected in future building plan submission(s) will be acceptable under lease;

- (e) the 10-year Small House demand forecast of Ting Kau Village is 103. There is no outstanding Small House application under processing as at 1.12.2022 and no Small House application was received/approved/rejected in the past 5 years; and
- (f) there are three Small House redevelopment applications currently under processing (**Plan A-2**).

Urban Design, Visual and Landscape

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

Urban Design and Visual

- (a) the Site is immediately surrounded by 2 to 3-storey houses (about 22mPD to 35mPD) to its east, vegetation and 1 to 3-storey village houses in Ting Kau Village to its south, and an open-air public car park to its west. The Site sits on a slope with site level of about 25mPD at Castle Peak Road – Ting Kau descending towards Ting Kau Beach in the south at about 4mPD. Given the context and as illustrated in the submitted photomontages (**Drawings A-7 to A-10**), it is unlikely that the proposed development will induce any significant adverse effects on the visual character of the surrounding townscape;
- (b) the proposed tree planting abutting Castle Peak Road – Ting Kau on G/F and vertical greening on the proposed retaining walls extending from the southeast to the southwest of the Site may promote visual interest and soften its mass as perceived by pedestrians;

Landscape

- (c) the Site is situated in an area of residential urban fringe landscape character comprising of low-rise residential developments, village developments and Ting Kau Beach. The Site is currently fully covered with tree groups and vegetation. The proposed development is not incompatible with the surrounding environment;
- (d) considering that various landscape treatments, including tree planting, vertical greening, etc., will be provided within the Site, it is considered that adverse landscape impact due to the proposed development can be mitigated. In addition, it is considered not necessary to impose any landscape condition should the application be approved by the Board; and
- (e) the applicant is reminded that approval of s.16 application does not imply approval of the site coverage of greenery requirements under APP PNAP-152 and/or under the lease. The site coverage

of greenery calculation should be submitted separately to BD for approval. Similarly for any proposed tree preservation/removal scheme and compensatory planting proposal, the applicant should approach relevant authority direct to obtain necessary approval as appropriate.

Traffic

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

has no in-principle objection to the application from the traffic engineering and transport operation viewpoints based on the submitted TIA (**Appendix Ie**).

9.1.4 Comments of the Project Manager (South), Civil Engineering and Development Department (PM(S), CEDD):

the Castle Peak Road – Ting Kau section of the proposed cycle track between Bayview Garden and So Kwun Wat project may involve relocating some existing amenity features fronting the Site. The applicant shall be reminded to pay attention to the possible interface when implementing the proposed residential development and consult CEDD when appropriate.

9.1.5 Comments of the Chief Highway Engineer/New Territories West (CHE/NTW), HyD:

has no comment on the application from highways maintenance perspective provided that:

- (i) the applicant would take up the maintenance responsibility of the affected HyD slope feature No. 6SE-C/C487 (**Plan A-2**); and
- (ii) the existing staircase access to retaining wall feature Nos. 6SE-C/R164 and 6SE-C/R151 (**Plan A-2**) shall not be obstructed during and upon development.

Environment

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

has no objection to the application from environmental planning perspective having considered the followings as demonstrated in the revised TNAQIA and SIA (**Appendix Id**):

- (i) the proposed development would comply with the noise criterion with the implementation of the proposed mitigation measures (i.e. self-protecting building design and acoustic windows) and no adverse noise impact is anticipated;

- (ii) the buffer distances for traffic emission from surrounding road sections have met the HKPSG requirements and no adverse air quality impact is anticipated; and
- (iii) sewage generated from the proposed development will be collected and conveyed to the public sewerage system.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) has no adverse comment on the application;
- (b) the submitted DIA (**Appendix Id**) has demonstrated that the proposed development would no cause adverse impact to the existing catchment area with the implementation of the proposed drainage design. However, the applicant should note the following comments on the assessment:
 - (i) the drainage design calculation in sections 7.5 and 7.6 should include but not limited to design standard, design criteria, design parameters and design storm events, etc.;
 - (ii) the assessment should clearly show that the newly issued SDM – Corrigendum No. 1/2022 has been adopted/followed/referenced (i.e. with the required rainfall increase to cater for mid 21st century / end 21st century).
- (c) it is noted that a SIA has been conducted by the applicant, and EPD has no further comment on the assessment and proposed mitigation measures identified therein; and
- (d) should the application be approved, it is recommended to impose the following conditions:
 - the submission of an updated DIA for the proposed development and implementation of the drainage scheme identified therein to the satisfaction of the Director of Drainage Services (D of DS) or of the Board; and
 - the design and provision of the connection from the proposed development to the public sewerage system and the implementation of the mitigation measures as identified in the SIA to the satisfaction of D of DS or of the Board.

Building Matters

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

- (a) has no objection to the application;
- (b) the applicant should be reminded that under the Buildings Ordinance (BO), no person shall commence or carry out any building works without having first obtained approval and consent from the Building Authority before commencement of works unless they are exempted under s.41 of the BO, or fall within minor works under the Building (Minor Works) Regulation;
- (c) any proposed building works should comply with the prevailing requirements under the BO and allied regulations and Code of Practices; and
- (d) other detailed comments are at **Appendix V**.

Geotechnical

9.1.9 Comments of the Head of the Geotechnical Engineering Office (H(GEO)), CEDD:

has no geotechnical comment on the GPRR (**Appendices Ib and Ic**) and hence has no geotechnical objection to the application.

9.2 The following Government departments have no objection to or no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Commissioner of Police;
- (c) Director of Fire Services;
- (d) District Officer (Tsuen Wan), Home Affairs Department (DO(TW), HAD); and
- (e) Project Manager (West), CEDD.

10. Public Comments Received During Statutory Publication Periods

10.1 During the statutory public inspection periods, a total of 26 public comments (**Appendix VI**) were received. All public comments, which were submitted by Resident Representative / Village Representatives of Ting Kau Village, villagers and individuals, objecting to the application.

10.2 The objecting grounds are mainly as follows:

- (a) the Site is within the VEB of Ting Kau Village and all the land within should be reserved for development by the villagers;
- (b) as a non-villager of Ting Kau Village, the applicant should not be granted the right to develop houses on the Site, particularly on the portion falling within “V” zone;

- (c) there is no ground to relax the development restriction for house development within “V” zone; and
- (d) the Site was originally the fung shui woodland of Ting Kau Village for protection of the dragon vein of the village. Approval of the subject application would have adverse impact on the fung shui and development of the village.

11. Planning Considerations and Assessments

11.1 The Site falls within an area zoned partly “R(C)” (about 53%) and partly “V” (about 47%) on the Tsuen Wan West OZP. According to the Notes for “R(C)” zone under the OZP, while ‘House’ use is always permitted at a maximum PR of 0.4 and a maximum BH of 3 storeys including car park, the PR may be increased to a maximum of 0.75, provided that the noise impact from Castle Peak Road on the proposed development would be mitigated, upon application to the Board. As for “V” zone, ‘House (not elsewhere specified)’ use (i.e. non-NTEH) requires planning permission from the Board and is subject to a maximum BH of 3 storeys (8.23m). The applicant proposed a house development comprising two 3-storey semi-detached houses (including one storey of basement communal car park) with a total PR of 0.75 and maximum BH of 10.525m at the Site. As such, the applicant seeks planning permission for development of ‘House’ use and minor relaxation of BH restriction from 8.23m to 10.525m (i.e. +28%) in the “V” zone; and to increase the PR to 0.75 in the “R(C)” zone. It should be noted that the Site was previously approved by the Board upon review (No. A/TWW/68) for three 3-storey houses with the same PR of 0.75 and maximum BH of about 34mPD developed on a raised platform with similar formation level. The application was subsequently lapsed as the proposed scheme was not commenced.

Proposed ‘House’ Use in “V” Zone

11.2 The Site is partly located at the western fringe of the concerned “R(C)” zone with 2 to 3-storey houses (about 22mPD to 35mPD) to its immediately east (**Plan A-2**). Although its remaining portion falls within “V” zone, the Site is separated from Ting Kau Village to the south on lower development platforms by natural and man-made cut slopes, a footpath and a public convenience (**Drawing A-7, Plan A-2** and Photo 5 on **Plan A-5**). In view of that the Site is a single private lot straddled two zones (i.e. “R(C)” and “V” zones) and its physical separation from the village, the proposed development of the Site into two 2-storey houses above a communal basement carpark is considered not unacceptable in terms of land use compatibility.

11.3 Given that the private lot portion of the Site is owned by the applicant, and there is no outstanding Small House application in Ting Kau Village³, the proposed house development at the Site could better utilise the scarce land resources in providing

³ According to DLO/TW&KT, LandsD, the 10-year Small House demand forecast for Ting Kau Village is 103, while there is no outstanding Small House application of the village currently under processing and no such application was received/approved/rejected in the past 5 years. Given that there is no outstanding application of the village, it is unable to ascertain if there is a genuine shortage of land within “V” zone to meet the Small House demand.

two houses in total. DLO/TW&KT, LandsD indicated that the Site falls within the VEB of Ting Kau Village and the land exchange application would be considered on its own merits upon the approval of the current application.

Increase of PR to 0.75 in “R(C)” Zone

- 11.4 To demonstrate the noise impact from Castle Peak Road would be mitigated to meet the requirement of the Notes to increase the PR to 0.75, the TNAQIA submitted by the applicant has confirmed that with the implementation of the proposed noise mitigation measures including self-protecting building design, fixed glazing/maintenance windows and acoustic windows (baffle type), no adverse traffic noise impact is anticipated. In this regard, DEP has no objection to the application from the environmental planning perspective. As such, it is considered that the OZP requirement to increase the PR restriction of the “R(C)” zone to 0.75 has been met.

Minor Relaxation of BH in “V” Zone

- 11.5 While the proposed BH of 3 storeys including carpark of the development is in line with the BH restrictions of both “R(C)” and “V” zones in terms of number of storeys, the absolute BH has exceeded the maximum BH restriction of 8.23m for the “V” zone, which is intended to achieve a coherent building design of NTEH, by 2.295m (+28%). As a house development, the proposed floor-to-floor height from 3.5m to 4m is considered not unreasonable and CBS/NTW, BD has no objection to the proposed scheme. The proposed BH of 34mPD (at main roof level) is also considered comparable with the low-rise and low-density house developments within “R(C)” zone to the immediate east with BH up to 35mPD abutting Castle Peak Road (**Plan A-2, Drawings A-7 and A-9**).
- 11.6 As demonstrated in the Landscape Proposal and photomontages (**Drawings A-6 to A-10**), the applicant has proposed landscaping edge treatments to mitigate the potential visual and landscape impact and to blend in well with the surroundings. CTP/UD&L, PlanD is of the view that the proposed treatments may promote visual interest and soften the building mass as perceived by pedestrians, and has no adverse comment on the application from urban design, visual and landscape perspectives. In view of the above design measures together with the surrounding planning context as mentioned above, and the resultant BH is considered not excessive as compared to residential developments to the immediate east, it is considered that the proposed minor relaxation of BH restriction in the “V” zone has met the relevant criteria for minor relaxation of BH clause under the ES of the OZP as stated in paragraph 8.4 above.

Previous and Similar Applications

- 11.7 The Site was the subject of a previous planning application (No. A/TWW/68) for the same use, PR and BH with a slightly larger site area submitted by the same applicant. The application was approved with conditions by the Board upon review on 20.2.2004 on the grounds that the nature of the application was more a matter of zoning boundary rectification and was allowable as minor alterations to boundaries between zones; and the merits of an integrated comprehensive development were acceptable. Notwithstanding the imposition of BH restrictions

to “V” zone in 2005, it is considered that there is no major change in the nature of the current application compared with the previous approval.

- 11.8 There is no similar application for proposed residential development in the “V” zone in the Tsuen Wan West area in respect of use and minor relaxation of BH restriction. Within “R(C)” zones, there are 16 similar applications for proposed residential development with a higher PR/GFA approved with conditions by the Committee between 2004 and 2019 (**Plan A-1**) mainly on the grounds of no adverse traffic noise impact and the landscaping and tree compensation proposals were considered acceptable. Approval of the subject application is in line with the decisions of these similar applications.

Technical Aspects

- 11.9 Relevant Government departments consulted have no objection to/no comment on the application in terms of traffic, noise/air, sewerage, drainage and geotechnical planning. Other detailed comments could be examined in the later general building plan submission and land exchange stages.

Public Comments

- 11.10 Regarding the public comments received, departmental comments in paragraph 9 and planning assessment and considerations above are relevant. As for the public comments regarding the Site was once a fung shui woodland of Ting Kau Village, DLO/TW&KT, LandsD and DO(TW), HAD indicated that there is no official record of its location. In general, fung shui is not a point for consideration under the current application.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, 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 17.3.2027, 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 are suggested for Members’ reference:

Approval Conditions

- (a) the submission of an updated Drainage Impact Assessment for the proposed development and implementation of the drainage scheme identified therein to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the design and provision of the connection from the proposed development to the public sewerage system and the implementation of the mitigation measures as identified in the Sewerage Impact Assessment to the

satisfaction of Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

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 permission.
- 13.2 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.
- 13.3 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.

14. Attachments

Appendix I	Application form received on 28.9.2022
Appendix Ia	Planning Statement received on 28.9.2022
Appendix Ib	Supplementary Information received on 7.10.2022
Appendix Ic	FI 1 received on 20.1.2023
Appendix Id	FI 2 received on 3.3.2023
Appendix Ie	FI 3 received on 13.3.2023
Appendix II	Previous Application No. A/TWW/68
Appendix III	Extract of Minutes of 807 th Meeting of the Board held on 20.2.2004
Appendix IV	Similar Applications
Appendix V	Detailed Departmental Comments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawings A-1 to A-4	Floor Plans, Section Plan and Elevation Plan
Drawing A-5	Location Plan of Existing Trees
Drawing A-6	Landscape Proposal
Drawings A-7 to A-10	Photomontages
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4 to A-5	Site Photos