

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/570

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| <u>Applicant</u> | : | Center Link Investment Limited represented by Mr. Hui Wah Kui |
| <u>Application Site</u> | : | Lot 590 in D.D.131, Tsing Shan Tsuen, Tuen Mun, New Territories |
| <u>Site Area</u> | : | About 111.48m ² |
| <u>Lease</u> | : | Building Lot |
| <u>Plan</u> | : | Approved Tuen Mun Outline Zoning Plan (OZP) No. S/TM/35 |
| <u>Zoning</u> | : | “Government, Institution or Community” (“G/IC”) <i>[Restricted to a maximum building height of 3 storeys excluding basement floor(s)]</i> |
| <u>Application</u> | : | Proposed Two Houses (New Territories Exempted Houses) |

1. The Proposal

1.1 The applicant seeks planning permission to build two New Territories Exempted Houses (NTEHs) on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for “G/IC” zone, ‘House’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and covered by vegetation.

1.2 Details of the proposed NTEHs development are as follows:

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| Total Floor Area : | 148.8 m ² (74.4 m ² each) |
| No. of Houses : | 2 |
| No. of Storeys : | 2 |
| Building Height : | 7.62 m |
| Roofed Over Area : | 74.4 m ² (37.2 m ² each) |

1.3 The Site is accessible from Wan Shan Road via the adjoining land (**Plan A-2**). The applicant indicates that the uncovered area of the Site would be for garden use. Layout of the proposed NTEHs development (with a septic tank) is shown on **Drawing A-1**.

- 1.4 In support of the application, the applicant has submitted the Application Form with supplementary planning statement (**Appendix I**) which was received by the Board on 27.10.2021.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix I**. They are summarised as follows:

- (a) The proposed NTEHs will be compatible with the surrounding areas, which are predominately rural in character with temples, columbaria, religious institutions and cultivation land.
- (b) The proposed two NTEHs will be built on a building lot.
- (c) The proposed development will not involve extensive land clearance or induce adverse traffic, sewerage and drainage impacts on the surrounding area.

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

The applicant is the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Development/Redevelopment within “G/IC” Zone for Uses other than “GIC” Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 16) is relevant to the application. The relevant assessment criteria are extracted as follows:

- (a) In general, sites zoned “G/IC” are intended to be developed or redeveloped solely for GIC uses unless it can be established that the provision of GIC facilities would not be jeopardised and the concerned Government departments have no objection to releasing a particular “G/IC” site or a certain part of it for non-GIC uses. For applications for development/redevelopment for non-GIC uses within a “G/IC” site, the applicant should satisfactorily demonstrate the following:
 - (i) in the case of an undesignated “G/IC” site, the application site is no longer required to be reserved for any GIC uses; and
 - (ii) the proposed development/redevelopment would not adversely affect the provision of GIC facilities in the district on a long-term basis.
- (b) The proposed development should be compatible in land use terms with the GIC uses on the site, if any, and with the surrounding areas.
- (c) The scale and intensity of the proposed development should be in keeping with that of the adjacent area and have regard to the character and massing of the building in the surrounding area.
- (d) The proposed development should not cause adverse traffic and environmental impact, and should be sustainable in terms of the capacities of existing and

planned infrastructure such as drainage, sewerage, roads, water supply and utilities in the locality and its surrounding areas.

- (e) The proposed development should be sustainable in terms of the overall planned provision of open space and GIC facilities in the area.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There are six similar applications (No. A/TM/92, 99, 101, 151, 161 and 260) involving three sites for NTEH development within the same “G/IC” zone. All these application sites involve building lots. Three of them were approved with conditions and the remaining three were rejected by the Committee or the Board. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

Approved Applications

- 6.2 Applications No. A/TM/101, 161 and 260 involving two sites were approved with conditions by the Committee or the Board on 18.1.1991, 7.5.1993 and 19.5.2000 respectively, on consideration that the proposed developments were of a small scale which unlikely induced adverse impacts; the proposed NTEHs were considered not incompatible with the surrounding environment; and relevant government departments had no adverse comments on the applications.

Rejected Applications

- 6.3 Applications No. A/TM/92, 99 and 151 involving three sites were rejected by the Board on 25.5.1990, 19.10.1990 or by the Board on review on 18.12.1992 respectively mainly on the grounds that the scale of developments was considered excessive, no sewage treatment/disposal facilities proposal had been submitted, and there was no access road leading to the lot. Two sites (under Applications No. A/TM/99 and 151) were subsequently involved in the above approved applications in which the development intensity was reduced and sewage treatment facilities proposed.

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

- 7.1 The Site is:

- (a) currently vacant and covered by vegetation; and
- (b) accessible by Wan Shan Road via the adjoining Government land.

- 7.2 The surrounding areas have the following characteristics:

- (a) developments in the vicinity of the Site are mainly rural in character with

scattered residential dwellings, monasteries, columbaria and vacant land;

- (b) to its immediate northeast and east are residential dwellings and orchard. To the further northeast and east are some religious institutions, unused land and residential dwellings;
- (c) to its north and northwest across Wan Shan Road are two religious institutions named 長明精舍 and 法華淨園 ; and
- (d) to its south are religious institutions and columbaria namely Lin Chi Ching Yuen (蓮池淨苑), Shan Yuan (善緣) and Fat Yuen Ching Shea (佛緣精舍).

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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/Tuen Mun, Lands Department (DLO/TM, LandsD):

- (a) The Lot was sold by Public Auction as a building lot. The original Conditions of Sale is untraceable. In the case that planning approval for the proposed development has been obtained, the Lot Owner is required to submit an application to his office for erection of the proposed development.
- (b) There is no guarantee that the concerned NTEH application on the Lot will be approved. Any application will be considered by LandsD acting in the capacity as the Landlord and decide on the appropriate form of documentation as its sole discretion. In the event that the NTEH application is approved, it would be subject to any terms and conditions as the Government shall deem fit. His office reserves the right to take any enforcement action as considered appropriate against any unauthorised development or any unauthorised occupation of Government land is detected.

Traffic

- 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The application site is served by Wan Shan Road which is connected

to Yeung Tsing Road. A short-section of Wan Shan Road near the junction of Yeung Tsing Road is a 2-way traffic road which is managed by the Transport Department (TD) and the remaining sections of the Wan Shan Road is a single-lane 2-way traffic road which is not managed by TD. The applicant should seek comments and consent from the management and maintenance parties of Wan Shan Road whether the existing access road is suitable/adequate to serve the proposed use.

- (b) It is noted that the proposed development has no direct vehicular access to Wan Shan Road. The applicant should also seek comments and consent from the management and maintenance parties of the land nearby whether an access road could be provided to serve the proposed use.
- (c) NTEH development should be confined within the “Village Type Development” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. Notwithstanding the above, the subject application only involves development of two houses which can be tolerated on traffic grounds.

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

As the existing road adjacent to the application site is not maintained by his department, he has no comment on the subject application from highways maintenance point of view.

Environment

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

- (a) In view of the small scale of the proposed development, the application alone is unlikely to cause major pollution.
- (b) There are existing public sewers at around 40m away from the application site available for connection. Nonetheless, the applicant might have to seek consent from adjacent lot owners and/or LandsD's permission in order to make connection to public sewers.
- (c) The applicant should make connection to public sewer as far as possible. If septic tank and soakaway system will be used, its design and construction shall follow the requirements of EPD's 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

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

With reference to the aerial photo of 2021, the Site is situated in an area of residential urban fringe landscape character predominated by villages, temporary structures and woodland. The applied use is considered not incompatible to the landscape character of the surrounding area. Since the site is currently vacant with no significant sensitive landscape resource observed and only 5 common species trees were found outside site adjacent to the boundary, significant adverse landscape impact arising from the application is not anticipated.

Drainage

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

He has no objection to the application from drainage maintenance viewpoint but the applicant should note this comments at **Appendix IV**.

Building Matters

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

In case DLO/TM decides not to issue the certificates of exemption for the site formation works and/or drainage works associated for the NTEH development, such works will require prior approval and consent under the Buildings Ordinance. In the circumstance, an Authorised Person should be appointed as the coordinator for the proposed works.

Fire Safety

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

- (a) He has no objection in principle to the application.
- (b) The applicant is advised to observe 'New Territories Exempted Houses - A Guide to Fire Safety Requirements' published by LandsD. Detailed fire safety requirements will be formulated upon receipt of formal application referred by LandsD.

District Officer's Comments

9.1.9 Comments of District Officer/Tuen Mun, Home Affairs Department (DO/TM, HAD):

He has distributed consultation letters to the locals concerned and understands that they would provide their comments (if any) to the Board

direct.

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

- (a) Commissioner of Police (C of P);
- (b) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager (West), West Development Office, Civil Engineering and Development Department (PM(W), CEDD);
- (d) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Director of Agriculture, Fisheries and Conservation (DAFC).

10. Public Comments Received During the Statutory Publication Period

On 5.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals objecting to the application on traffic, environmental and fire safety concerns. Besides, the proposed development would impact the development of community facilities and the use of septic tanks would cause environmental impact (**Appendices III-1 and II-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed development of two NTEHs at the Site zoned “G/IC” on the OZP (**Plan A-1**). The “G/IC” zone is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. The subject “G/IC” zone mainly comprises two special schools, two secondary schools, Independent Commission Against Corruption Training Camp and Hong Kong Institute of Vocational Education located along Tsing Wun Road on the eastern portion and a number of monasteries scattered around the hilly slope on the western portion away from the major road (**Plan A-3**). While the proposed development is not in line with the planning intention of the “G/IC” zone, the proposed NTEHs development is considered small in scale on private land (about 111m²) located in the western portion of the “G/IC” zone, which has not been designated for any GIC use. Approval of the application would not jeopardise the future provision of Government, institution or community facilities in the area.
- 11.2 The Site is located within an area predominately rural in character with a mix of residential dwellings of two to three storeys, monasteries, columbaria and vacant/unused land (**Plan A-2**). The two proposed two-storey NTEHs are considered not incompatible with the surrounding areas.
- 11.3 As advised by DLO/TM, LandsD, the Site is a building lot sold by public auction but the original Conditions of Sale is untraceable. It has been the existing practice of the Board to take into account building status under the lease in considering planning application for house development. In this regard, there is an exceptional circumstance which merits sympathetic consideration of the application in that the Site has building status under lease.

- 11.4 Although C for T opines that approval of the subject application will set an undesirable precedent case for similar applications in the future and the resulting cumulative adverse traffic impact could be substantial, he also considers that the subject application only involves development of two houses which can be tolerated on traffic grounds. Other relevant Government departments including DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no objection to or adverse comments on the application. Significant adverse impacts from the proposed development on traffic, environmental, drainage, fire safety and landscape aspects are not anticipated.
- 11.5 There are six similar applications for NTEH development within the same “G/IC” zone involving three sites. Three applications were approved on consideration that the proposed developments were of a small scale which unlikely induced adverse impacts; the proposed NTEHs were considered not incompatible with the surrounding environment; and relevant government departments had no adverse comments on the applications. The other three applications were rejected mainly on the grounds that the scale of developments was considered excessive, no sewage treatment/disposal facilities proposal had been submitted, and there was no access road leading to the lot. Two sites were subsequently involved in the above approved applications in which the development intensity was reduced and sewage treatment facilities proposed. As the proposed development under current application for two two-storey NTEHs with septic tanks proposed is of small scale, the site is accessible via Wan Shan Road and concerned departments have no adverse comment on the application, approval of the application is in line with the previous decisions of the Committee/Board on similar applications in the area.
- 11.6 Two public comments objecting to the application were received during the statutory public inspection period as summarised in paragraph 10. The planning considerations and assessments in paragraphs above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, 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 **24.12.2025**, 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 suggested for Members’ reference:

Approval Conditions

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.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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

the proposed development is not in line with the planning intention of the "G/IC" zone which is intended primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments. There is no strong planning justification in the submission for a departure from the planning intention.

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

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| Appendix I | Application form with supplementary planning statement received on 27.10.2021 |
| Appendix II | Similar Applications |
| Appendices III-1 & III-2 | Public comments |
| Appendix IV | Recommended advisory clauses |
| Drawing A-1 | Proposed layout plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plan A-4 | Site Photos |