

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM/576

- Applicant** : Wong Yuen Yee represented by Pang Hing Yeun
- Application Site** : Lots 583 S.B, 583 S.C and 583 RP in D.D.131, Tsing Shan Tsuen, Tuen Mun, New Territories
- Site Area** : About 195.13m²
- Lease** : Building Lot
- Plan** : Draft Tuen Mun Outline Zoning Plan (OZP) No. S/TM/36 (currently in force)

Approved Tuen Mun OZP No. S/TM/35 (at the time of submission)
- Zoning** : “Government, Institution or Community” (“G/IC”) [Restricted to a maximum building height of 3 storeys excluding basement floor(s)] (no change in the zoning of the site under the current OZP)
- Application** : Proposed Three Houses (New Territories Exempted Houses)

1. The Proposal

1.1 The applicant seeks planning permission to build three 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:

Total Floor Area : 360.6m² (120.2m² each)
No. of Houses : 3
No. of Storeys : 2
Building Height : 7.62m
Roofed Over Area : 180.3m² (60.1m² each)

1.3 The Site is close to Wan Shan Road without direct vehicular access (**Plan A-2**). No parking spaces will be provided within the Site. Layout of the proposed

NTEHs development and the drainage and sewerage proposals are shown on **Drawings A-1 to A-3** respectively.

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

- (a) Application Form received on 14.7.2022 (Appendix I)
- (b) Supplementary Information (SI) received on 20.7.2022 (Appendix Ia)
- (c) Further Information (FI) received on 8.11.2022 (Appendix Ib)
- (d) FI received on 16.11.2022* (Appendix Ic)
- (e) FI received on 22.2.2023 (Appendix Id)
- (f) FI received on 24.3.2023* (Appendix Ie)
(*exempted from publication and recounting requirements)

1.5 On 9.9.2022 and 23.12.2022, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application as requested by the applicant to allow time for the applicant to address departmental comments.

2. Justifications from the Applicant

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

- (a) The proposed NTEHs will be compatible with the surrounding areas. The proposed development parameters are comparable to the development intensity of the existing three houses of two storeys at the adjacent lots. Similar applications for NTEH development have been approved in Tsing Shan Tsuen.
- (b) The proposed NTEHs will be built on building lots originated from a larger building lot which has been partially developed into three houses of two storeys¹.
- (c) No parking space will be provided within the Site and the future residents will use public transport services which are within 15-minutes' walk from the Site. Therefore, there will be no adverse traffic impact. For construction, the adjacent local track which falls within government land will be used as access to the Site.
- (d) Two existing trees of common species within the Site will be felled and compensated by planting four new trees on the adjoining land. Two existing trees to the immediate northeast of the Site will not be affected by the proposed development.

¹ The existing houses at the adjacent lots (松竹苑) were built before the publication of the first Tuen Mun OZP.

- (e) The nearby grave is located about 8m from the Site. Appropriate measures will be provided to ensure the concerned grave would not be affected.
- (f) The proposed development will not involve extensive site formation or induce significant adverse geotechnical, sewerage, drainage and landscape impacts on the surrounding areas.

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 seven similar applications (No. A/TM/92, 99, 101, 151, 161, 260 and 570) involving four sites for NTEH development within the same “G/IC” zone. All these application sites involve building lots. Four of them were approved with conditions and the remaining three were rejected by the Committee or the Board on review. Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

Approved Applications

- 6.2 Applications No. A/TM/101, 161, 260 and 570 involving three sites for development of two to five NTEHs were approved with conditions by the Committee or the Board on 18.1.1991, 7.5.1993, 19.5.2000 and 24.12.2021 respectively, on consideration that the proposed developments were of 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 for development of two to seven NTEHs were rejected by the Committee or the Board on review on 25.5.1990, 19.10.1990 and 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 were 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 trees and vegetation; and
- (b) close to Wan Shan Road without direct vehicular access.

- 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, temples, columbaria and unused land;
- (b) to its immediate southwest is a residential development named 松竹苑 with three houses of two storeys. To the further south across Wan Shan Road are religious institutions and/or columbaria namely Kong Lau Yuen (光留園), Lin Chi Ching Yuen (蓮池淨苑) and Fat Yuen Ching Shea (佛緣精舍);

- (c) to its north is a religious institution named Cheung Ming Ching She (長明精舍); and
- (d) to the further east across Wan Shan Road is the proposed NTEHs development with two houses of two storeys approved under planning application No. A/TM/570. To its further west and northwest are unused land and graves.

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community (GIC) 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 Lots under application are of building land status. In case that planning approval for the proposed development has been obtained, the Lot Owner is required to submit an application to her office for permission to erect the proposed development.
- (b) The Lots are not directly fronting an access road and the nearby Wan Shan Road is not maintained by her office. Concerning the public comment about access arrangement to the Lots, it is noted that the access leading to Cheung Ming Ching She (長明精舍) and the Lots branching off from Wan Shan Road is on Government land, and no right of way has been granted to Cheung Ming Ching She (長明精舍). There is no guarantee that any right of way will be given to Cheung Ming Ching She (長明精舍) or the applicant, and the applicant shall make her own arrangement. The Lots do not encroach onto any existing or planned emergency vehicular access (EVA).
- (c) For the drainage and sewerage proposals (**Drawings A-2 and A-3**), the proposed U-channel and pipeline will be built across Government land. The applicant will be required to apply to DLO/TM for permission to construct the channel and pipeline on Government land.

- (d) The applicant proposes to fell two trees within the Site and will take precaution measures to protect another two existing trees nearby grown on Government Land. For the four new trees proposed to be planted, they all fall on Government land, comment from the Agriculture, Fisheries and Conservation Department (AFCD) should be obtained regarding the precaution measures taken for the two preserved trees and the new planting of trees on Government land. Prior approval by his office shall be obtained before implementation of the tree proposal.
- (e) The applicant should note the advisory comments in **Appendix IV**.

Traffic

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

- (a) 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.
- (b) Notwithstanding the above, the application only involves development of three NTEHs which can be tolerated on traffic grounds.
- (c) The applicant should note the advisory comments in **Appendix IV**.

Environment

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

- (a) He has no objection to the application on conditions that the proposed NTEHs will be connected to the public sewer, adequate land space within the Site will be reserved for connection of the proposed houses to the public sewer, written consent(s)/permission can be obtained from the relevant lot owner(s)/LandsD for laying and maintaining sewage pipes, and the cost of sewer connection and maintenance will be borne by the applicant.
- (b) The “Recommended Pollution Control Clauses Contracts” (available at https://www.epd.gov.hk/epd/english/environmentinhk/eia_planning/guide_ref/rpc.html) to minimise the environmental impact during the construction stage should be followed.

Landscape and Nature Conservation

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

- (a) With reference to the aerial photo of 2022, the Site is situated in an area of residential urban fringe landscape character predominated by

woodlands, village houses, religious facilities and columbaria. The proposed use is considered not incompatible with the landscape setting of the surrounding areas.

- (b) It is noted that all existing vegetation and trees (one 青果榕 and one 欖樹) within the Site are required to be cleared/felled for the foundation works, while four new trees (荔枝) will be planted and the two surrounding trees will be preserved. Considering the trees proposed to be felled are all common species and there is no significant landscape resources or Tree of Particular Interest found within the Site, and planting of new trees is also proposed for mitigation, irreversible landscape impact is not anticipated from the proposed development. Hence, she has no specific comment on the application from landscape planning perspective.

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

It is noted that two trees within the Site are proposed to be felled. Given that the trees within the Site are of common species and four new trees would be planted as proposed by the applicant, he has no comment from nature conservation perspective.

Drainage

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

- (a) He has no objection to the application. Should the application be approved, an approval condition requiring the submission and implementation of drainage proposal for the proposed development should be imposed to ensure that it would not cause adverse drainage impact on the adjacent areas.
- (b) Her technical comments on the drainage and sewerage proposals (**Drawings A-2 and A-3**) are at **Appendix IV**.

Geotechnical

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

- (a) Noting that the applicant has committed in the Geotechnical Planning Review Report (GPRR) to undertake a natural terrain hazard study (NTHS) and to implement mitigation measures, if necessary, he has no further comment on the revised GPRR submitted by the applicant.
- (b) Should the application be approved, an approval condition on the submission of a NTHS and implementation of mitigation measures recommended therein, as part of the development, is required.

Fire Safety

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

He has no objection in principle to the application provided that the Site does not encroach onto any existing EVA, or planned EVA in accordance with LandsD's record.

District Officer's Comments

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

His office has not received any public comments. He understand that the concerned locals would provide their comments (if any) to the Board direct.

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

- (a) Commissioner of Police (C of P);
- (b) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Project Manager (West), West Development Office, CEDD (PM(W), CEDD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD).

10. Public Comments Received During the Statutory Publication Periods

On 26.7.2022, 15.11.2022 and 7.3.2023, the application and its FI were published for public inspections. During statutory public inspection periods, a total of 13 public comments were received from Cheung Ming Ching She (長明精舍), 松竹苑 (the adjoining residential development) and individuals objecting to the application on traffic, environmental, ecological, fire safety, indoor ventilation, landscape, drainage, geotechnical and feng shui grounds. Cheung Ming Ching She (長明精舍) and 松竹苑 opined that the Site has no direct vehicular and pedestrian access and this may cause land dispute issue with the surrounding neighbours. Other commenters also pointed out that the proposed development will cause extensive clearance of trees and vegetation, and affect the feng shui of the nearby grave; the proposed development is not in line with the planning intention of the "G/IC" zone and would impact the development of community facilities in the area; the use of septic tanks would cause environmental impact to the surrounding area; and the intention of the proposed development is in doubt. Moreover, construction of the proposed development would cause traffic congestion on the narrow Wan Shan Road and noise nuisance to the nearby residents and religious institutions (**Appendices III-1 to III-13**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed development of three NTEHs at the Site zoned “G/IC” on the OZP (**Plan A-1**). The “G/IC” zone is intended primarily for the provision of GIC 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, the Independent Commission Against Corruption Training Camp and the Hong Kong Institute of Vocational Education located along Tsing Wun Road on the eastern portion and a number of temples scattered around the hilly slope on the western portion away from the major roads (**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 195m²) 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 GIC facilities in the area.
- 11.2 As advised by DLO/TM, LandsD, the lots of the Site are of building land status. 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 in that the Site has building status under lease which merits sympathetic consideration of the application.
- 11.3 The Site is located within an area predominately rural in character with a mix of residential dwellings of two to three storeys, temples, columbaria and vacant/unused land (**Plan A-2**). The three proposed two-storey NTEHs are considered not incompatible with the surrounding areas.
- 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, she also considers that the application only involves development of three houses which can be tolerated on traffic grounds. Two existing trees within the Site are proposed to be felled and would be compensated by planting four new trees on the adjoining land. In this regard, CTP/UD&L of PlanD has no adverse comment on this proposal from landscape planning perspective. Other relevant Government departments including DAFC, DEP, CE/MN of DSD, D of FS and H(GEO) of CEDD have no objection to or adverse comments on the application. Significant adverse impacts from the proposed development on traffic, ecological, environmental, drainage, fire safety, geotechnical, landscape and tree preservation aspects are not anticipated.
- 11.5 According to TPB PG-No. 16 for application for development within “G/IC” zone for uses other than GIC uses, the proposed development should be compatible with the surrounding areas in terms of land use, scale and intensity, and sustainable in terms of infrastructure capacities. It should not adversely affect the provision of GIC facilities in the district and cause adverse traffic and environmental impact. In view of the assessments in paragraphs 11.1, 11.3 and 11.4 above, the application is considered not in conflict with TPB PG-No. 16.
- 11.6 There are seven similar applications for NTEH development within the same “G/IC” zone involving four sites. Four of the seven applications were approved on consideration that the proposed developments were of 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 of the rejected application sites were subsequently involved in the above approved applications in which the development intensity was reduced and sewage treatment facilities proposed. Although there is no direct vehicular access leading to the Site, the applicant explains that the Site could be accessed via the adjoining Government land branching off from Wan Shan Road. In this regard, DLO/TM, LandsD and C for T have no objection to/adverse comment on the application and advised that the applicant shall make his/her own access arrangement. As the proposed development under current application for three two-storey NTEHs is of small scale 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.

- 11.7 13 public comments objecting to the application were received during the statutory public inspection periods as summarised in paragraph 10 above. The planning considerations and assessments and government departments' comments in paragraphs 9 and 11 above are relevant. As for feng shui issue, it is not a planning consideration of the Board. Regarding the concern on environmental impact caused by using septic tanks, the applicant proposes to connect the proposed NTEHs to public sewer. The applicant also responds that there is an 8m distance between the site boundary and the concerned grave and appropriate measures will be taken to ensure that the proposed development will not affect the grave.

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 **21.4.2027**, 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 and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board; and
- (b) the submission of a Natural Terrain Hazard Study Report and provision of suitable mitigation measures identified therein to the satisfaction of the Director of Civil Engineering and Development 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

Appendix I	Application Form received on 14.7.2022
Appendix Ia	SI received on 20.7.2022
Appendix Ib	FI received on 8.11.2022
Appendix Ic	FI received on 16.11.2022
Appendix Id	FI received on 22.2.2023
Appendix Ie	FI received on 24.3.2023
Appendix II	Similar Applications
Appendices III-1 to III-13	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Drainage Proposal
Drawing A-3	Sewerage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos