

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/677

- Applicants** : Mr. TAM Yuen Tat and Ms. CHENG Yim Lai represented by Mr. PANG Hing Yeun
- Site** : Lots No. 715 and 722 in D.D. 5, Chuk Hang Village, Tai Po
- Site Area** : About 112.8 m²
- Lease** : New Grants No. 7570 and 7638 for building purpose
- restricted to 2 storeys and not exceeding 7.62m in height
- Plan** : Draft Tai Po Outline Zoning Plan (OZP) No. S/TP/29
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Two Houses (New Territories Exempted Houses (NTEHs))

1. The Proposal

1.1 The applicants, owners of the application site (the Site), seek planning permission to build two houses (NTEHs) at the Site (**Plan A-1**). According to the Notes of the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH only)’ in the “GB” zone requires planning permission from the Town Planning Board (the Board). The Site comprises two lots (i.e. Lots 715 and 722). Lot 715 is currently vacant and Lot 722 is occupied by a 2-storey domestic structure.

1.2 Details of the proposed two NTEHs are as follows:

	Lot 715 (House 1)	Lot 722 (House 2)
Site Area	72.7m ²	40.1m ²
Roofed-over Area ⁺ (excluding balcony)	65.03m ²	40.1m ²
Domestic Gross Floor Area (GFA)	130.06m ²	80.2m ²
No. of Storeys	2	2
Building Height (BH)	5.49m	5.49m

(⁺based on latest further information received on 16.2.2022 at **Appendix Id**)

- 1.3 Layout of each of the proposed NTEH and the proposed sewerage connection are shown on **Drawings A-1 and A-2** respectively.
- 1.4 The Site is the subject of three previous applications (No. A/TP/348, 604 and 612) for the same use. Except for Application No. A/TP/604 for two NTEHs of 3 storeys (8.23m) in height rejected by the Rural and New Town Planning Committee (the Committee) on 13.5.2016, the other two applications (No. A/TP/348 and 612) for two NTEHs of 2 storeys (5.49m) in height were approved with conditions by the Committee on 18.1.2008 and 11.11.2016 respectively. Details of the previous applications are given in paragraph 6 below. Compared with the last previous application No. A/TP/612, the building footprints of the two proposed NTEHs have been adjusted to tally with the boundary of each of the lots.
- 1.5 In support of the application, the applicants have submitted the following documents:
- (a) Application form with attachments received on 15.9.2021 **(Appendix I)**
 - (b) Supplementary information received on 23.9.2021 **(Appendix Ia)**
 - (c) Further Information (FI) received on 13.1.2022 providing revised layout plans of the proposed two houses* **(Appendix Ib)**
 - (d) FI received on 9.2.2022 providing responses to public comments* **(Appendix Ic)**
 - (e) FI received on 16.2.2022 providing revised layout plans showing proposed sewerage connection* **(Appendix Id)**
- (* accepted and exempted from publication and recounting requirements)
- 1.6 At the request of the applicants, the Committee agreed on 12.11.2021 to defer making a decision on the application for two months to allow more time for the applicants to address departmental comments. The FI submissions were received on 13.1.2022, 9.2.2022 and 16.2.2022. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application as stated in Part 8 of the application form, supplementary information and FI submissions at **Appendices I to Id** are summarized as follows:

- (a) the Site comprises two Old Schedule house lots, and the applicants have the right to build two houses at the Site. Applications for NTEH development at the Site have been submitted to the Lands Department (LandsD);

- (b) the footprints of the two proposed NTEHs have been adjusted in response to LandsD's comments whereas the proposed BH of 2 storeys is same as the previously approved application;
- (c) since the granting of last planning permission on 11.11.2016, the applicants have been involved in resolving villagers' objection and forgotten to apply for extending the validity period of the planning permission. As the planning permission has lapsed in 2020 and the applications for NTEH developments are yet to be approved by LandsD, a fresh planning application is required;
- (d) there are similar village houses built in the vicinity. The proposed NTEHs are compatible with the landscape setting of the surrounding areas. A camphor tree in the vicinity is about 10m away and its growth would not be affected;
- (e) the applicants are the current land owners of the Site. There was no temporary structure erected on the Site at the time the applicants acquired the lots; and
- (f) the applicants would comply with the requirements raised by relevant government departments. The existing structure on Lot 722 will be demolished to address LandsD's comment.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owners". Detailed information would be deposited at the meeting for Members' inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix II**.

5. Town Planning Boards Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "GB" zone under section 16 of the Town Planning Ordinance' is relevant to this application. The relevant assessment criteria are summarized below:

- (a) there is a general presumption against development in the "GB" zone;
- (b) applications for new development in "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 NTEHs, a plot ratio up to 0.4 for residential development may be permitted;
- (c) redevelopment of existing residential development will generally be permitted

up to the intensity of the existing development;

- (d) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (e) 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;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, roads and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (g) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area; and
- (h) any proposed development on a slope or hillside should not adversely affect slope stability.

6. Previous Applications (Plan A-2)

- 6.1 The Site is the subject of three previous applications (No. A/TP/348, 604 and 612) for the same use, with two applications approved and one rejected.
- 6.2 Application No. A/TP/348 submitted by a different applicant for two NTEHs (2 storeys and 5.49m high) was approved with conditions by the Committee on 18.1.2008 mainly on consideration that the proposed development was generally in line with TPB PG-No. 10; not incompatible with the surrounding environment; would not cause adverse traffic, environmental, sewerage and fire safety impacts on surrounding areas; and the proposed development parameters were in line with the lease entitlement (i.e. restricted to 2 storeys and not exceeding 7.62m in height).
- 6.3 Application No. A/TP/604 submitted by the same applicants of the current application was for two NTEHs of 3 storeys (8.23m high), which was rejected by the Committee on 13.5.2016 mainly because the application did not comply with the TPB PG-No. 10 in that the development intensity of the proposed NTEHs had exceeded that of the building entitlement under the lease.
- 6.4 Subsequently, the current applicants submitted Application No. A/TP/612 for two NTEHs (2 storeys and 5.49m high), which was approved with conditions by the Committee on 11.11.2016 on the same consideration of Application No. A/TP/348. This planning permission lapsed on 12.11.2020. Compared with the last previous application (A/TP/612), the building footprint of each proposed NTEH has been adjusted to tally with the boundary of each lot in response to LandsD's comments.

- 6.5 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

7. Similar Applications

- 7.1 There are seven similar applications within the same “GB” zone in the vicinity of the Site since the first promulgation of the Interim Criteria on 24.11.2000. Application No. A/TP/534 was for NTEH (not Small House) development whereas the other six applications (No. A/TP/311, 312, 342, 354, 383 and 407) were for Small House development. All these applications were approved with conditions by the Committee.
- 7.2 Application No. A/TP/534 for two NTEHs of 3-storey high was approved by the Committee on 7.6.2013 mainly because the application site was subject to building entitlement, and the proposed development would not have adverse environmental, drainage and traffic impacts on surrounding areas. For the six Small House applications (No. A/TP/311, 312, 342, 354, 383 and 407), they were approved by the Committee between 2003 and 2008 mainly on consideration of being in line with the Interim Criteria in that the application site was within the village ‘environs’, and there was insufficient land in the “Village Type Development” zone to meet the Small House demand at the time of consideration.
- 7.3 Details of the above similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-2**.

8. The Site and Its Surrounding Area (Plans A-1, A-2 and photos on Plans A-3 and A-4)

- 8.1 The Site is:
- (a) partly vacant (on Lot 715) and partly occupied by a 2-storey domestic structure¹ (on Lot 722);
 - (b) surrounded by village houses and temporary domestic structures; and
 - (c) accessible by a local footpath.
- 8.2 The surrounding area is predominantly rural in character comprising village houses and temporary domestic structures in Chuk Hang Village. To the south within the same “GB” zone are existing Small Houses covered by planning permissions (**Plan A-2**) and to the further south is the village proper of San Wai Tsai village. Dense vegetation and tree groups are found to the north. A large Camphor tree and some other trees are found in close vicinity of the Site.

¹ The domestic structure on Lot 722 does not tally with any previously approved scheme as mentioned in paragraph 6 of the paper.

9. **Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. **Comments from Relevant Government Departments**

10.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) no objection to the application;
- (b) Lots 715 and 722 are held under New Grants No. 7570 and 7638 respectively. According to the records available, Lot 715 with an area of 783 ft² (about 72.7m²) and Lot 722 with an area of 432 ft² (about 40.1m²) are for building purpose. Development thereon is governed by GN 364 of 1934, which permits 2-storey building not exceeding 7.62m in height among other restrictions;
- (c) the proposed NTEHs with footprints of 65.03m² on Lot 715 and 40.1m² on Lot 722 and a BH of 2 storeys (5.49m high) are in line with the lease entitlement. If the NTEH applications for the two lots are approved by LandsD acting in the capacity as landlord at its sole discretion, such approvals might be subject to such terms and conditions as imposed by LandsD;
- (d) the existing structure on Lot 722 was built without LandsD’s approval. The unauthorized construction was detected in 2011 and was completed despite LandsD’s warning. The applicants have to demolish the unauthorized building no matter the planning application is approved or not. Otherwise appropriate lease enforcement action will be taken by LandsD; and
- (e) other comments are detailed in **Appendix V**.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering viewpoint; and
- (b) the village access road connecting San Wai Tsai Road is not under Transport Department’s management. The land status,

management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

Environment

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

- he has no in-principle objection to the application provided that the applicants will provide adequate sewer connection for disposal of sewage from the proposed houses to the existing public sewer at their own costs and reserve adequate land for the sewer connection work.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;
- (b) should the application be approved, an approval condition requiring the submission and implementation of drainage proposal for the Site should be imposed to ensure that the proposed development would not cause adverse drainage impact to the adjacent areas;
- (c) there is no public drain maintained by DSD in the vicinity of the Site. The applicants should have their own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. The proposed development is located on unpaved ground, which will increase the impervious area resulting in a change of flow pattern and an increase of surface runoff and thus the flooding risk in the area. The applicants should take this into account when preparing the drainage proposal. The applicants are also required to maintain the drainage systems properly and rectify the systems if they are found to be inadequate or ineffective during operation. The applicants shall be liable for and shall indemnify claims and demands arising out of damage or nuisance caused by failure of the systems;
- (d) there is existing public sewers in the vicinity of the Site. The applicants should submit the sewerage connection proposal for DSD's approval and follow the established procedures and requirements for connecting sewer from the Site to the public sewerage system; and
- (e) other comments are detailed in **Appendix V**.

Nature Conservation

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

- he has no strong view on the application as the Site is partly hard paved and partly occupied by an existing house. The applicants are advised to avoid affecting the mature camphor tree (樟樹) located to the south of the Site.

Landscape

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

- (a) no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of urban peripheral village landscape character surrounded by village houses, temporary structures and scattered tree groups. The Site is hard paved with no significant sensitive landscape resource observed. Some weed trees and trees of common species are observed within or in close proximity to the Site. Significant adverse impact on existing landscape resources within the Site arising from the proposed development is not anticipated;
- (c) there are a number of approved planning applications for Small House development to the south of the Site within the same “GB” zone. The proposed development is considered not entirely incompatible with the surrounding environment; and
- (d) a mature tree (*Cinnamomum camphora* 樟) is located to the south outside the Site with tree canopy encroaching into the Site. The applicants are advised to avoid impact on this mature tree and reminded that approval of the planning application does not imply approval of tree works such as pruning, transplanting and felling under lease. For any proposed tree works, approval should be sought from relevant department prior commencement of works.

Fire Safety

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

- (a) no in-principle objection to the application; and
- (b) the applicants are reminded 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.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department; and
- (d) District Officer/Tai Po, Home Affairs Department.

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

The application was published for public inspection. During the statutory publication period, four public comments were received from a villager of Chuk Hang Village and individuals raising objection to the application mainly for reasons of causing adverse drainage impact; potential damage to or felling of a large mature tree in the vicinity of the Site; being close to a man-made slope; encouraging NTEH developments within the “GB” zone; and demolition of two squatters previously existed at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for the proposed development of two NTEHs (not Small Houses) at the Site zoned “GB” on the OZP. The planning intention of “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 “GB” zone. DAFC has no strong view on the application as the Site is partly hard paved and partly occupied by an existing village house.
- 12.2 The Site involves two New Grant lots (i.e. Lots 715 and 722) with building status under lease. DLO/TP of LandsD advises that development on each of the lots is governed by GN 364 of 1934, which permits 2-storey building not exceeding 7.62m in height. The proposed NTEHs with building height of 2 storeys (5.49m high) and roofed-over areas of 65.03m² (Lot 715) and 40.1m² (Lot 722) not exceeding the area of respective lots are generally in line with their lease entitlement. In this regard, DLO/TP of LandsD has no objection to the application.
- 12.3 The Site is partly vacant (Lot 715) and partly occupied by a 2-storey domestic structure (Lot 722). It is surrounded by village houses and temporary domestic structures, and the “V” zone of San Wai Tsai Village is about 100m to the south (**Plans A-2 and A-3**). The proposed development is not incompatible with the surrounding areas which are predominantly rural in character. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse impact on existing landscape resources within the Site is not anticipated. There is a mature tree (*Cinnamomum camphora* 樟) located to the south outside the Site. According to the applicants, the camphor tree is about 10m away and its growth would not be affected by the proposed development. Other relevant government departments consulted including C for T, DEP,

CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. In view of the above, the proposed development is generally in line with TPG PG-No. 10.

- 12.4 The Site is the subject of three previous applications. Applications No. A/TP/348 and 612 for the development of two NTEHs of 2 storeys high were approved by the Committee mainly because the proposed development intensity tallied with the building entitlement of not exceeding two storeys and hence was in line with the TPB PG-No. 10. However, Application No. A/TP/604 for the development of two NTEHs of 3 storeys high was rejected by the Committee mainly due to exceedance of the building entitlement under the lease. The planning circumstances of the current application are similar to those approved applications.
- 12.5 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 11 above, government departments' comments and the planning assessments above are relevant. For the public comment claiming that the squatters previously existed at the Site were demolished, the applicants point out that they are the current land owners of the lots and there was no temporary structure erected on the Site at the time they acquired the lots.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 4.3.2026, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory Clauses

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

- 13.3 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 "GB" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general

presumption against development within this zone. There is no strong justification in the submission for a departure from the planning intention.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application form and attachments received on 15.9.2021
Appendix Ia	Supplementary information received on 23.9.2021
Appendix Ib	Further information received on 13.1.2022
Appendix Ic	Further information received on 9.2.2022
Appendix Id	Further information received on 16.2.2022
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories (promulgated on 7.9.2007)
Appendix III	Previous applications
Appendix IV	Similar applications
Appendix V	Detailed departmental comments
Appendix VI	Public comments
Appendix VII	Recommended advisory clauses
Drawing A-1	Layout plan for Lot 715 in D.D. 5
Drawing A-2	Layout plan for Lot 722 in D.D. 5
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photo