

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/687

<u>Applicant</u>	: Miss CHAN Wing Wai represented by T.H. & Associates Limited
<u>Site</u>	: Lot 371 in D.D. 32, Ha Wong Yi Au, Tai Po, New Territories
<u>Site Area</u>	: About 37.6m ²
<u>Lease</u>	: Block Government Lease (demised for 'House' use)
<u>Plan</u>	: Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30
<u>Zoning</u>	: "Green Belt" ("GB")
<u>Application</u>	: Proposed House (New Territories Exempted House (NTEH)) (not Small House)

1. The Proposal

1.1 The applicant, owner of the application site (the Site), seeks planning permission to build a NTEH 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)' use in the "GB" zone requires planning permission from the Town Planning Board (the Board). The Site is currently vacant.

1.2 Details of the proposed NTEH are as follows:

Total floor area	: 112.8m ²
No. of storeys	: 3
Building height	: 8.23m
Roofed over area	: 37.6m ²

1.3 Layout of the proposed NTEH and the proposed sewerage connection are shown in **Drawings A-1 to A-3**.

1.4 The Site is the subject of three previous applications (No. A/TP/589, 602 and 650) for Small House developments involving a larger site area submitted by different applicants, which were rejected by the Rural and New Town Planning Committee (the Committee) on 7.8.2015, 13.5.2016 and 6.7.2018 respectively (**Plan A-2**). Details of the previous applications are set out in paragraph 6 below.

- 1.5 The applicant has submitted a Geotechnical Planning Review Report (GPRR) and a drainage proposal. The applicant has committed in the GPRR to undertake a natural terrain hazard study (NTHS) and to implement mitigation measures, if necessary, as part of the proposed development.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 13.2.2023 (Appendix I)
 - (b) Further Information (FI) received on 19.5.2023 ^ (Appendix Ia)
 - (c) FI received on 15.6.2023* (Appendix Ib)
 - (d) FI received on 10.7.2023* (Appendix Ic)
- (^ accepted but not exempted from publication requirements)
(* accepted and exempted from publication requirements)
- 1.7 On 31.3.2023, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application as detailed in the attachment to the Application Form at **Appendix I** are summarized as follows:

- (a) the applicant would like to build a NTEH on her lot demised for house use to improve her living condition;
- (b) the Site is served by an existing access;
- (c) the proposed NTEH will not involve tree felling. No adverse environmental, traffic, water supply, land filling and drainage impacts are anticipated; and
- (d) there are approvals of similar applications for Small House developments within the same “GB” zone.

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

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

4. **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 promulgated on 7.9.2007 is at **Appendix II**.

5. Town Planning Board Guidelines

Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance (the TPO)’ (TPB-PG No. 10) is relevant to this application. The relevant assessment criteria are at **Appendix III**.

6. Previous Applications

- 6.1 The Site is the subject of three previous applications (No. A/TP/589, 602 and 650) involving a larger site area (162m²) for two Small House developments submitted by two different applicants.
- 6.2 The applications were rejected by the Committee on 7.8.2015, 13.5.2016 and 6.7.2018 respectively mainly on ground(s) that the developments were not in line with the planning intention of the “GB” zone and TPB-PG No. 10 in that the proposed developments would affect the existing natural landscape and adversely affect slope stability; non-compliance with the Interim Criteria in that over 50% of the proposed Small House footprint fell outside the village ‘environs’ (‘VE’) and the “Village Type Development” (‘V’) zone; setting of undesirable precedent for similar developments in the “GB” zone; and land was still available within the “V” zone.
- 6.3 Details of the previous applications are summarized at **Appendix IV** and the locations are shown on **Plan A-2**.

7. Similar Application

There is no similar application for NTEH (not Small House) development within the same “GB” zone in the vicinity of the Site.

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

- 8.1 The Site is:
 - (a) vacant and generally flat;
 - (b) located at the northern fringe of the “GB” zone; and
 - (c) accessible via a footpath leading to Wong Yi Au Road branching off from Tai Po Road – Yuen Chau Tsai Section.
- 8.2 The surrounding areas are predominantly rural in character with existing village houses in Ha Wong Yi Au to the immediate north of the Site within “V” zone. To the south of the Site is a natural woodland within “GB” zone.

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 summarized as follows:

Land Administration

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

- (a) the Site is held under Block Government Lease and described as ‘House’ use; and
- (b) currently no application for NTEH rebuilding at the Site is being processed by his office.

Traffic

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

- (a) NTEH development should be confined within the “V” zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the “V” zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial; and
- (b) notwithstanding the above, the application only involving development of a NTEH can be tolerated on traffic grounds.

Environment

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

- He has no in-principle objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the NTEH to the existing public sewer at his 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; and
- (b) the applicant should note the advisory comments as detailed in **Appendix VI**.

Nature Conservation

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

- He has no strong view on the application from nature conservation point of view as the Site is vacant.

Landscape

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

- (a) the Site is vacant and paved. No existing trees are found within the Site. Further significant adverse impact on landscape resources arising from the proposed development is not anticipated; and
- (b) with reference to aerial photo of 2022, the Site is situated in an area of rural landscape character surrounded by natural woodland within “GB” zone to the south and village houses within “V” zone to the north and further south. There is concern that approval of the application may alter the landscape character of the green belt and further degrade the landscape quality of the surrounding environment. In view of the above, she has some reservation on the application from landscape planning perspective.

Fire Safety

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

- (a) no in-principle objection to the application provided that the proposed house would not encroach on any existing emergency vehicular access (EVA) or planned EVA under application in accordance with LandsD’s record; and
- (b) the applicant should note the advisory comments as detailed in **Appendix VI**.

Geotechnical

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

- No geotechnical comment on the application as the applicant has committed in the GPRR to undertake a NTHS and to implement mitigation measures, if necessary, as part of the proposed development.

Water Supply

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

- (a) no objection to the application; and
- (b) the applicant should note the advisory comments as detailed in **Appendix VI**.

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 (CHE/NTE, HyD);
- (b) Project Manager/North, CEDD (PM/N, CEDD); and
- (c) District Officer/Tai Po, Home Affairs Department (DO/TP, HAD).

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

On 17.2.2023 and 30.5.2023, the application was published for public inspection. During the statutory public inspection periods, four public comments were received from Kadoorie Farm and Botanic Garden and individuals objecting to the application mainly on the grounds of being not in line with the planning intention of “GB” zone; setting of undesirable precedent; causing adverse landscape impact; and encouraging vegetation clearance before approval.

12. Planning Considerations and Assessments

12.1 The application is for the proposed development of an NTEH (not Small House) on the Site zoned “GB” on the OZP. The proposed NTEH 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. However, DAFC has no strong view on the application from nature conservation point of view as the Site is vacant, and the special circumstances mentioned in paragraph 12.3 below are relevant.

12.2 The Site, situated at the northern fringe of the “GB” zone, is currently vacant and paved. The surrounding areas are predominantly rural in character with existing village houses in Ha Wong Yi Au to the immediate north of the Site within “V” zone. To the south of the Site is a natural woodland within “GB”

zone (**Plans A-3 to A-4b**). No existing trees are found within the Site. Though further significant adverse impact on landscape resources arising from the proposed development is not anticipated, CTP/UD&L of PlanD has some reservation on the application as there is concern that approval of the application may alter the landscape character of the green belt and further degrade the landscape quality of the surrounding environment.

- 12.3 According to assessment criterion (c) under the Interim Criteria (**Appendix II**), NTEH applications with more than 50% of the footprint outside ‘VE’ and ‘V’ zone would normally not be approved unless under very exceptional circumstance such as the Site has a building status under the lease. As advised by DLO/TP of LandsD, the Site is a lot held under Block Government lease demised as ‘House’ use. In accordance with the Interim Criteria, 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. As each application would be considered on its individual merits, approval of the current application would unlikely set an undesirable precedent for similar applications within the “GB” zone.
- 12.4 The applicant has proposed to connect the proposed NTEH to the public sewerage system under construction for future connection to existing public sewer along Wong Yi Au Road, which is located near the Site (**Plan A-2**). CE/MN of DSD has no in-principle objection to the application on condition that the applicant should submit and implement the drainage proposal for the Site. DEP has no objection to the application provided that the applicant will provide adequate sewer connection for disposal of sewage from the NTEH to the existing public sewer at his own costs and reserve adequate land for the sewer connection work. Furthermore, as the applicant has committed in the GPRR (**Appendix Ia and Ib**) to undertake an NTHS and to implement mitigation measures, if necessary, as part of the proposed development, H(GEO) of CEDD has no geotechnical comment on the application. Other relevant government departments including DO(TP) of HAD, D of FS, C for T and CHE/NTE of HyD have no objection to or adverse comments on the application. In view of the above, the proposed use is in line with the TPB PG-No. 10.
- 12.5 For the three rejected previous applications concerning the Site, all of them cover a larger site for Small House development, the circumstances of which are different from those of the current application for non-Small House. Besides, the applicant has addressed the geotechnical concern as envisaged in the previous application. There is no similar application within the same “GB” zone for NTEH (not Small House) development.
- 12.6 Regarding the public comments objecting to the application on the grounds as detailed in paragraph 11 above, concerned government departments’ comments and the planning assessments above are relevant.

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 above, 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 14.7.2027, 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 condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

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 VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's 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 planning 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 13.2.2023
Appendix Ia	FI received on 19.5.2023
Appendix Ib	FI received on 15.6.2023
Appendix Ic	FI received on 10.7.2023
Appendix II	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in the New Territories

	(promulgated on 7.9.2007)
Appendix III	TPB PG-No. 10
Appendix IV	Previous applications
Appendix V	Public comments
Appendix VI	Advisory clauses
Drawings A-1 to A-3	Layout plan and sewerage connection plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
JULY 2023**