

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/691

Applicant : Mr. CHAN Wah Hing represented by T.H. & Associates Limited

Site : Lot 370 in D.D. 32, Ha Wong Yi Au, Tai Po, New Territories

Site Area : About 36.2m²

Lease : Block Government Lease (demised for 'House' use)

Plan : Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/30

Zoning : "Green Belt" ("GB")

Application : 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	:	108.6m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	36.2m ²

1.3 Layout of the proposed NTEH and 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 committed to undertake a natural terrain hazard study (NTHS) and implement mitigation measures, if necessary, for the proposed development.
- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 31.8.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 9.10.2023 ^ **(Appendix Ia)**
- (^ accepted but not exempted from publication requirements)

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 his lot demised for house use to improve his 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) similar applications for Small House developments have been approved 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’ (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 grounds of not being 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/or 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-1**.

7. Similar Application

- 7.1 There is one similar application for NTEH (not Small House) development within the same “GB” zone to the immediate west of the Site.
- 7.2 The application (No. A/TP/687) was approved with conditions by the Committee on 14.7.2023 mainly on the grounds of complying with the Interim Criteria in that sympathetic consideration of the application was given to the site as it had building status; and the proposed NTEH was able to be connected to the public sewerage system under construction and the applicant has committed to undertake an NTHS to implement mitigation measures. Details of the above similar application are summarized at **Appendix V** and its location is shown on **Plan A-2**.

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. To the south of the Site is a natural woodland.

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 one NTEH can be tolerated on traffic grounds.

Environment

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

- 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 VII**.

Nature Conservation

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

- 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. It is noted that the Site adjoins the boundary of an approved application for NTEH (application no. A/TP/687). We have no comment on the application from the 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 at **Appendix VII**.

Geotechnical

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

- (a) 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; and

- (b) an approval condition on the submission of a NTHS and implementation of the mitigation measures recommended therein is required.

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 at **Appendix VII**.

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 Periods (Appendix VI)

On 8.9.2023 and 17.10.2023, the application and the FI were published for public inspection. During the statutory public inspection periods, a total of two public comments from the same individual were received objecting to the application mainly on the grounds that land is still available within the “V” zone of Ha Wong Yi Au and development on “GB” zone should be avoided, and providing views that the same planning considerations for approved similar application No. A/TP/687 would be applicable to the subject application.

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. The special circumstances as mentioned in paragraph 12.3 below are also 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. To the south of the Site is a natural woodland (**Plans A-3 to A-4b**). No existing trees are found within the Site. CTP/UD&L of PlanD has no comment on the application from the landscape planning perspective as further significant adverse impact on landscape resources arising from the proposed development is not anticipated.
- 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 from public drainage viewpoint. 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 works. Furthermore, as the applicant has committed in the GPRR (**Appendix Ia**) to undertake an NTHS and to implement mitigation measures, if necessary, for 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 not entirely covered by building lots, 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 raised in the previous applications by H(GEO) of CEDD .
- 12.6 For the similar application No. A/TP/687 for NTEH (not Small House) development within the same “GB” zone to the immediate west of the Site, the planning circumstances of the current application is similar in that the Site has building status and the proposed NTEH is able to be connected to the public sewerage system under construction and the applicant has committed to undertake an NTHS to implement mitigation measures.

- 12.7 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 8.12.2027, 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 also suggested for Members' reference:

Approval Conditions

- (a) the submission of a natural terrain hazard study before commencement of works to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the TPB; and
- (b) in relation to condition (a) above, the implementation of the mitigation measures recommended therein to the satisfaction of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department or of the TPB.

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 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 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 applicant.

15. Attachments

Appendix I	Application form and attachments received on 31.8.2023
Appendix Ia	FI received on 9.10.2023
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	Similar application
Appendix VI	Public comments
Appendix VII	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
DECEMBER 2023**