

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/692

<u>Applicant</u>	: Mr. CHAN Wah Hing represented by T.H. & Associates Limited
<u>Site</u>	: Lots 353 RP (Part) and 361 in D.D. 32, Ha Wong Yi Au, Tai Po, New Territories
<u>Site Area</u>	: About 41.9m ²
<u>Lease</u>	: Block Government Lease - Lot 361 demised for 'Shed' use - Lot 353 RP demised for 'Dry Cultivation' 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	:	88.8m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	29.6m ²

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

- 1.4 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.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments and supplementary information received on 12.1.2024 and 17.1.2024 **(Appendix I)**
 - (b) Further Information (FI) received on 24.4.2024[^] **(Appendix Ia)**
- (^ accepted but not exempted from publication requirements)*
- 1.6 On 1.3.2024, the Rural and New Town Planning Committee (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 attachments to the Application Form at **Appendix I** are summarized as follows:

- (a) the applicant would like to build a NTEH on his lot 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 NTEH 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 Application

The Site is not the subject of any previous planning application.

7. Similar Applications

- 7.1 There are two similar applications for NTEH (not Small House) developments (No. A/TP/687 and 691) within the same “GB” zone to the west of the Site.
- 7.2 The applications (No. A/TP/687 and 691) were approved with conditions by the Committee on 14.7.2023 and 8.12.2023 respectively mainly on the grounds of complying with the Interim Criteria in that sympathetic consideration of the applications was given as the sites had building status; the proposed NTEHs were able to be connected to the public sewerage system under construction; and the applicants have committed to undertake an NTHS to implement mitigation measures.
- 7.3 Details of the above similar applications are summarized at **Appendix IV** and their locations are 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, hard-paved and generally flat;
 - (b) located at the southern fringe of Ha Wong Yi Au Village and 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 characterized by residential urban fringe landscape with existing village houses and low-rise residential buildings in the “Village Type Development” (“V”) zone to the north and “Residential (Group C)” zone to the northeast of the Site respectively, and a dense woodland in the “GB” zone to the south of the Site.

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) Lot No. 361 in D.D. 32 is an Old Schedule Lot held under the Block Government Lease with a description of ‘Shed’, while Lot No. 353 RP in D.D. 32 is an Old Schedule Lot held under the Block Government Lease with a description of ‘Dry Cultivation’;
- (b) his office will evaluate applications for the redevelopment of NTEHs on a case-by-case basis, considering the merit of each application. This process includes verifying relevant information through aerial photos, Land Registry information, and historical records related to the application site;
- (c) in relation to this application, his office has verified the relevant information obtained from aerial photos, Land Registry records, and historical records gathered from the District Survey Office and the Authorized Land Surveyor representing the applicant. Information obtained from the Land Registry includes a memorial dated 17.1.1949 under Memorial No. 122939 which signifies that the building covering an area of 275 sq.ft. on the Lot 361 was in a state of ruin and had been demolished by 1949. There is no conflicting information available to suggest that the Lot 361 does not carry a building status;
- (d) currently no application for NTEH rebuilding at the Site is being processed by his office; and
- (e) the proposed NTEH would not encroach on any existing and planned emergency vehicular access (EVA).

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 VI**.

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, hard-paved and located immediately adjacent to a vegetated slope. According to the applicant, no tree felling is involved. Significant adverse impact on the existing 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 residential urban fringe landscape character surrounded by

existing low-rise residential buildings, village houses, roads and dense woodland. She has no objection to 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 or planned EVA under application in accordance with LandsD's record; and
- (b) the applicant should note the advisory comments as detailed at **Appendix VI**.

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 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 Periods (Appendix V)

On 19.1.2024 and 3.5.2024, the application and the FI were published for public

inspection. During the statutory public inspection periods, a total of two public comments from two individuals were received. One individual objects to the application mainly on the grounds that the Site is entirely outside the “V” zone, land is still available within the “V” zone of Ha Wong Yi Au, and development on “GB” zone should be avoided. Another individual indicates no comment on the 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. 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 hard-paved. The surrounding areas are predominantly of residential urban fringe landscape character with existing low-rise residential buildings, village houses, roads and dense woodland (**Plans A-3 to A-4b**). CTP/UD&L of PlanD has no objection to the application from the landscape planning perspective as 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 the village ‘environs’ (‘VE’) and “V” zone would normally not be approved unless under very exceptional circumstances such as having a building status under the lease. The Site is subject to Old Schedule Lots under Block Government Lease with a description of ‘Shed’ for Lot No. 361 in D.D. 32 and ‘Dry Cultivation’ for Lot No. 353 RP respectively. DLO/TP of LandsD advises that his office will evaluate applications for the redevelopment of NTEHs on a case-by-case basis, considering the merit of each application. Having verified the relevant information as mentioned in paragraph 10.1.1 above, there is no conflicting information available to suggest that the Lot 361 does not carry a building status. In accordance with the Interim Criteria, sympathetic consideration could be given to the application. 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 two similar applications No. A/TP/687 and 691 for NTEH (not Small House) developments within the same “GB” zone to the west of the Site, the planning circumstances of the current application are 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. As such, approval of the current application is in line with the Committee’s previous decisions.
- 12.6 Regarding the public comment 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 21.6.2028, 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 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 suburban 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 applicant.

15. Attachments

Appendix I	Application form with attachments and supplementary information received on 12.1.2024 and 17.1.2024
Appendix Ia	FI received on 24.4.2024
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	Similar 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