

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/657

- Applicant** : Grand Wings Development Limited
- Site** : Lot 208 in D.D. 18, Lung A Pai, Lam Tsuen, Tai Po, New Territories
- Site Area** : About 103m²
- Lease** : Block Government Lease (0.02 acre¹ is recorded as house)
- Plan** : Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed House (New Territories Exempted House (NTEH))

1. The Proposal

1.1 The applicant seeks planning permission for development of an NTEH on the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH only, other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes)’ within the “AGR” zone requires planning permission from the Town Planning Board (the Board).

1.2 Details of the proposed NTEH development are as follows:

Total floor area	:	195.09m ²
No. of storeys	:	3
Building height	:	8.23m
Roofed over area	:	65.03m ²

1.3 Layout of the proposed NTEH and the proposed sewerage connection are shown on **Drawings A-1** and **A-2** respectively.

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

- (a) application form and attachments received on 18.10.2018 (**Appendix I**);
- (b) supplementary information received on 30.10.2018 with a replacement page of the application form (**Appendix Ia**); and

¹ 0.02 acre is equivalent to about 80.94m².

(c) Further information (FI) received on 7.12.2018 (**Appendix Ib**).

1.5 The application was originally scheduled for consideration by the Committee on 7.12.2018. On 7.12.2018 and 1.2.2019, the Committee agreed to defer decision on the application as requested by the applicant to allow time for it to prepare FI in support of the application. On 5.3.2019, the applicant informed the Board that no FI would be submitted (**Appendix Ic**). Thus, the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in supporting documents at **Appendix I**. They can be summarized as follows:

- (a) there have been two planning applications for the same use situated at the adjoining lots (i.e. Lot 206 and 207) approved by the Committee; and
- (b) the subject lot has building status and the current application is an application for redevelopment.

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

The applicant is the sole “current land owner”. The “owner’s consent/ notification” requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) is not applicable. 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 and had been amended four times on 30.3.2001, 23.8.2002, 21.3.2003 and 7.9.2007. On 23.8.2002, criterion (i) which requires that the application site, if located within water gathering grounds (WGG), should be able to be connected to the existing or planned sewerage system in the area was incorporated. No change has been made to the criterion (i) in the latest set of Interim Criteria promulgated on 7.9.2007 which is at **Appendix II**.

5. Previous Application

There is no previous planning application at the Site.

6. Similar Applications

6.1 There are two similar applications (No. A/NE-LT/611 and 630) for NTEH development located to the immediate northwest of the Site (**Plan A-2**) submitted

by a different applicant which were approved by the Committee on 24.11.2017 and 18.5.2018 respectively under exceptional circumstances that the sites had building status under the lease and it had been the Board's established practice to respect the building right of the land owners in considering similar planning applications; and approval of the application would not set an undesirable precedent.

- 6.2 Besides, there was an application (No. A/NE-LT/610) for Small House development to the immediate southwest of the Site, which was rejected by the Committee on 14.7.2017 mainly on the grounds of not complying with the planning intention of the "AGR" zone and the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas; land was still available within the "V" zone of Lung A Pai for Small House development; and approval of the application would set an undesirable precedent.
- 6.3 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1** and **A-2**.

7. The Site and its Surrounding Areas (Plans A-1 and A-2 and photos on Plans A-3 and A-4)

7.1 The Site is:

- (a) generally flat and covered by groundcovers and wild grass;
- (b) located to the northwest of village proper of Lung A Pai; and
- (c) accessible via a footpath.

7.2 The surrounding area is predominantly rural in character with fallow agricultural land, tree groups and village houses. Dense woodland and tree group is located to the immediate southwest of the Site.

8. Planning Intention

The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

Land Administration

- 9.1 Comments of the District Lands Officer/Tai Po, Lands Department (DLO/TP of LandsD):
- (a) no in-principle objection to the proposed NTEH development with a footprint of 65.03m², total gross floor area of 195.09m², and building height of 8.23m;

- (b) the subject lot is an Old Schedule Lot held under Block Government Lease. According to his record, the lot has an area of 0.03 acre (about 121.4m²), of which 0.02 acre (about 80.9m²) is described as “house” and is of building status;
- (c) the number of storeys and height of the proposed development shall not be more than 3 storeys and 8.23m in height as permitted under the Building Ordinance (Application to the New Territories) Ordinance, Cap 121;
- (d) the subject lot is within the village ‘environs’ of Lung A Pai;
- (e) the subject lot is not covered by any Modification of Tenancy/building licence;
- (f) the proposed sewerage connection will traverse private lots and Government land. The applicant should obtain concerned private lot owners’ registered consents in the Land Registry to construct pipelines and manholes thereon, and LandsD’s written consent prior to commencement of works on Government land. Subject to Drainage Services Department (DSD)’s acceptance of the sewerage connection proposal, his office has no objection to it ;
- (g) should the planning application be approved, LandsD would continue to process the redevelopment application in the capacity of a landlord and if the application is approved, it will be subject to such terms and conditions as considered appropriate; and
- (h) there is no guarantee to the grant of the right of way to the development concerned or approval of the EVA thereto.

Traffic

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

- (a) in general, he has reservation on the application. Such type of development should be confined within the “Village Type Development” (“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, he considers that the application only involving development of one NTEH can be tolerated.

Environment

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

- (a) the Site falls within the “AGR” zone and is within water gathering ground (WGG). He notes that the applicant proposed to connect the subject NTEH

to the sewer manhole as indicated on **Plan A-2**. The public sewerage in the area should have sufficient capacity to accommodate sewage arising from the proposed NTEH. He has no objection to the application on the conditions that:

- (i) the proposed NTEH will be connected to the public sewer for sewage disposal;
- (ii) the application would follow ProPECC PN 1/94 during site formation works in construction phase to prevent polluting the watercourse in the vicinity (about 18m from the Site);
- (iii) adequate land space within the Site will be reserved for connection of the proposed NTEH to the public sewer;
- (iv) written consents would be obtained from the adjacent lot owner(s) for laying and maintaining sewage pipes, if applicable; and
- (v) the cost of sewer connection and maintenance will be borne by the applicant.

Landscape

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

- (a) objects to the application from landscape planning perspective;
- (b) the Site is situated in an area of rural landscape character comprising natural woodland and abandoned farmlands. It is vacant and covered with groundcovers. No existing tree is found within the Site but a number of young native trees including *Celtis sinensis* (朴樹), *Dimocarpus longan* (龍眼) and *Viburnum odoratissimum* (珊瑚樹) are found adjacent. Comparing with the aerial photos in 2014 and 2015, it is apparent that vegetation has been cleared within and outside the Site. Approval of the application would set an undesirable precedent to encourage vegetation clearance prior to the application. In addition, since the Site is situated at the edge of existing mature woodland, approval of the application would encourage similar developments of further encroachment to the woodland. The cumulative effect of approving such applications would result in degradation of landscape character and is against the planning intention of the “AGR” zone; and
- (c) should the application be approved, approval condition on the submission and implementation of landscape proposal should be imposed.

Drainage and Sewerage

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

- (a) no in-principle objection to the application from public sewerage/drainage point of view;
- (b) the proposed house is located within an area where connections to existing sewerage networks are available in the vicinity. Should the application be approved, a condition should be included to request the applicant to submit and implement the sewerage proposal for the Site to ensure that it will not cause adverse sewerage impact to the adjacent area;
- (c) as no stud pipe is reserved for the proposed house, EPD's view should be sought whether the sewage to be generated from the proposed house can be adequately catered by the existing / planned public sewers located nearby. Should the applicant choose to dispose of sewage of the proposed development through other means, views and comments from EPD should be sought;
- (d) there is no public drain maintained by DSD in the vicinity of the Site. The proposed house should have its own stormwater collection and discharge systems to cater for the runoff generated within the Site and overland flow from other areas surrounding the Site. Should the application be approved, a condition should be included to request the applicant to submit and implement the stormwater drainage proposal for the Site. The applicant should also observe the advisory clauses at **Appendix V**.

Agriculture

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

The Site is overgrown with grass and weeds. Nevertheless, there are active agricultural activities in the vicinity and agricultural infrastructure such as footpath and water source is available. The Site possesses potential for agricultural rehabilitation. As such, the application is not supported from agricultural point of view.

Fire Safety

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

- (a) no in-principle objection to the application; and
- (b) the applicant is 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.

Water Supply

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

- (a) no objection to the application;
- (b) the Site is located within the upper indirect WGG and is less than 30m away from the nearest stream course. DEP indicated that the proposed NTEH is able to be connected to the public sewerage system in the area. Therefore, compliance with the “Interim Criteria for Consideration of Applications for NTEH/Small House in New Territories” can be reasonably established;
- (c) for connecting the proposed NTEH with the public sewerage system, the following requirements should be met:
 - (i) the applicant shall connect the whole of the foul water drainage system to the public sewerage system from the proposed NTEH to the public sewerage system;
 - (ii) adequate protective measures shall be taken to ensure that no pollution or siltation occurs to the WGG;
 - (iii) the applicant shall submit an executed Deed of Grant of Easement for each private lot through which the sewer connection pipes are proposed to pass to demonstrate that it is both technically and legally feasible to install sewerage pipes from the proposed NTEH to the public sewerage system via relevant private lots;
 - (iv) since the proposed NTEH itself is less than 30m from the nearest watercourse, it should be located as far away from the watercourse as possible;
 - (v) the whole of foul effluent shall be conveyed through cast iron pipes or other approved material with sealed joints and hatchboxes from the proposed NTEH to public sewers; and
- (d) for provision of water supply to the development, the applicant may need to extend the inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD’s standards.

Electricity Supply and Safety

9.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) no comment on the application from electricity supply safety aspect; and
- (b) however, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organising and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier for the requisition of cable plans (and overhead line alignment drawings where applicable) to find out whether there is any underground cable and/or overhead line within or in the vicinity of the Site. The applicant should also

be reminded to observe the “Code of Practice on Working near Electricity Supply Lines” established under the Electricity Supply Lines (Protection) Regulation when carrying out works in the vicinity of the electricity supply lines.

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

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

10. Public Comment Received During Statutory Publication Period (Appendix IV)

On 30.10.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received objecting to the application on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone and there is no strong planning justification in the submission for a departure from the planning intention.

11. Planning Considerations and Assessments

- 11.1 The application is for development of an NTEH at the Site which falls entirely within the “AGR” zone (**Plan A-1**). The proposed NTEH development is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application as the Site possesses potential for rehabilitation of agricultural activities.
- 11.2 The Site, situated to the northwest of the village proper of Lung A Pai, is currently vacant and covered by groundcovers and grass (**Plan A-4**). The surrounding area is rural in character occupied mainly by fallow agricultural land and village houses, with a dense woodland at the southwest (**Plan A-3 and A-4**). While CTP/UD&L of PlanD objects to the application as approval of the application will set an undesirable precedent of vegetation clearance prior to application, the proposed development is not incompatible with the surrounding area.
- 11.3 This is an exceptional circumstance which merits sympathetic consideration of the application in that the Site is an Old Schedule Lot held under Block Government Lease with a building status. As advised by the DLO/TP of LandsD, about 0.02 acre (about 80.9m²) is described as house under the Block Government Lease. Therefore, he has no in-principle objection to the development of an NTEH on the Site with a footprint of 65.03 m², a total floor area of 195.09 m² and not more than 3 storey (8.23m) as permitted under the buildings Ordinance (Application to the New Territories) Ordinance. It has been the existing practice of the Board to take into account the building status under the lease in considering planning applications. As each application would be considered on its individual merits, the approval of the

subject application would unlikely set an undesirable precedent for similar applications within the “AGR” zone.

- 11.4 The Site falls within the upper indirect WGG. CE/MN, DSD advises that the Site is within an area where connections to existing sewerage networks are available in the vicinity (**Plan A-2**). The applicant has proposed to connect the proposed NTEH to the public sewerage system (**Drawing A-2** and **Plan A-2**). Both DEP and CE/C of WSD have no objection to the application provided that the applicant shall connect the proposed NTEH to the public sewer at his own cost. C for T has general reservation on the application as such development should be confined within “V” zone as far as possible but considers that the application involving development of an NTEH only can be tolerated. Other relevant Government departments including CHE/NTE of HyD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application.
- 11.5 Regarding the Interim Criteria (**Appendix II**), the footprint of the proposed NTEH falls wholly within the ‘VE’ of Lung A Pai and the proposed NTEH would be able to be connected to the public sewerage system in the area. To address CTP/UD&L, PlanD’s concern on adverse landscape impact to the area, a planning condition on the submission and implementation of landscape proposal could be imposed if the application is approved. It is also noted that apart from DAFC and CTP/UD&L, PlanD, other concerned Government departments have no objection to or adverse comment on the application.
- 11.6 There are two similar applications (No. A/NE-LT/611 and A/NE-LT/630) for NTEH development situated to the immediate northwest of the Site (**Plan A-2**), which were approved by the Committee on 24.11.2017 and 18.5.2018 based on exceptional circumstances that the site had a building status under the lease. The current application with similar circumstances of having a building status warrants sympathetic consideration on the same basis.
- 11.7 As regards the application No. A/NE-LT/610 for Small House development situated to the immediate southwest of the Site (**Plan A-2**), it was rejected by the Committee in 2017 for the reason of not complying with the planning intention of the “AGR” zone and the Interim Criteria in that the proposed development would cause adverse landscape impact on the surrounding areas; land being still available within the “V” zone of Lung A Pai for Small House development; and setting of an undesirable precedent for other similar application in the area. The circumstances of that application are not similar or relevant to the subject application.
- 11.8 The public comment objecting to the application is mainly on the grounds that the proposed development is not in line with planning intention of the “AGR” zone and there is no strong planning justification in the submission for a departure from the planning intention. In this regard, the planning assessments and comments of Government departments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, 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 **22.3.2023** 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 and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the connection of the foul water drainage system to the public sewers to the satisfaction of the Director of Water Supplies or of the Town Planning Board; and
- (d) the provision of protective measures to ensure no pollution or siltation occurs to the water gathering grounds to the satisfaction of the Director of Water Supplies or the Town Planning Board.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes and also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the current submission for a departure from the planning intention; and
- (b) the proposed development does not comply with the Interim Criteria for Consideration of Application for NTEH/Small House in New Territories in that the proposed development would cause adverse landscape impact on the surrounding area.

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 conditions and advisory clauses, if any, to be attached to the permission.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and attachments received on 18.10.2018
Appendix Ia	Supplementary information received on 29.10.2018
Appendix Ib	Further Information received on 7.12.2018
Appendix Ic	Letter from Applicant received on 5.3.2019
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	Similar applications
Appendix IV	Public comment
Appendix V	Recommended advisory clauses
Drawing A-1	Site plan submitted by the applicant
Drawing A-2	Sewerage connection proposal submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photo

**PLANNING DEPARTMENT
MARCH 2019**