

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/648

- Applicants** : Mr. CHAN Kwai Wah and Ms. TANG Yu Fun represented by Mr. LEE Wai Leung
- Site** : Lot 186 in D.D. 79, Ping Yeung, Ta Kwu Ling, New Territories
- Site Area** : 283.83 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : Green Belt (“GB”)
- Application** : Proposed House

1. The Proposal

- 1.1 The applicants seek planning permission to build a house at the application site (the Site) in Ping Yeung (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘House (other than rebuilding of New Territories Exempted House or replacement of existing domestic building by New Territories Exempted House permitted under the covering Notes)’ in “GB” zone is a Column 2 use requiring planning permission from the Town Planning Board (the Board).
- 1.2 According to the applicants, the proposed house is a 1-storey house comprising 4 bedrooms, 2 toilets and 1 kitchen, with anticipated completion in year 2025. No car park is proposed at the Site. Detailed development parameters of the proposed house is as follows:

Site Area	283.83 m ² (about)
Gross Floor Area (GFA)	108 m ² (about)
Plot Ratio (PR)	0.38 (about)
No. of Storeys	1 (not more than 3.3m in height)
Site Coverage	38% (about)

- 1.3 The Site is accessible via a local track leading to Ping Yuen Road (**Plan A-2**). The ingress/egress is proposed at the western boundary of the Site. The applicants indicate that the uncovered area of the Site would be used for private open space. Layout

(including septic tank), floor and elevation plans of the proposed house are shown on **Drawings A-1 to A-3** respectively. The Site is currently fenced off and vacant.

1.4 In support of the application, the applicants have submitted the following documents:

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|-----|--|---------------|
| (a) | Application Form which was received on 17.9.2020. | (Appendix I) |
| (b) | Further Information (FI) received on 29.10.2020 [^] | (Appendix Ia) |
| (c) | FI received on 2.11.2020 [^] | (Appendix Ib) |

[^] *accepted and exempted from publication*

2. **Justifications from the Applicants**

The justifications put forth by the applicants in support of the application are detailed in part 10 of the application form at **Appendix Ia**. They can be summarized as follows:

- (a) the applicants have no accommodation; and
- (b) the Site is the only land parcel owned by the applicants for construction of their own House for retirement.

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

The applicants are the sole “current land owners” of the lot. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The 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) are relevant to this application. The relevant assessment criteria are summarized as follows:

- (a) there is a general presumption against development (other than redevelopment) in a “GB” zone;
- (b) an application for new development in a “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 New Territories Exempted Houses, 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) 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. Tree preservation and landscaping proposals should be provided;

- (e) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features;
- (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; and
- (g) the proposed development should not be susceptible to adverse environmental effects from pollution sources nearby such as traffic noise, unless adequate mitigating measures are provided, and it should not itself be the source of pollution.

5. **Background**

According to the Chief Town Planner / Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is not subject to planning enforcement action.

6. **Previous Application**

There is no previous application for the Site.

7. **Similar Application**

There is no similar application in the same "GB" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

8. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plan A-4)

8.1 The Site is:

- (a) vacant, mainly covered by grass and fenced off (**Plan A-4**); and
- (b) accessible by Ping Yuen Road via a local track (**Plan A-2**).

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and east is vegetated areas within "GB" zone with some graves and burial urns;
- (b) to the further north is the village proper of Ping Yeung Village (**Plan A-1**);
- (c) to the south are domestic structures and active/fallow agricultural land; and
- (d) to the west are car park, domestic structures and active/fallow agricultural land.

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/North, Lands Department (DLO/N, LandsD):

- (a) the Site is an Old Schedule Lot demised for agricultural use held under the Block Government Lease. It does not possess any building status; and
- (b) if the application is approved, the lot owner is required to apply to his department for a land exchange. Such application, if received, will be considered by his department acting in the capacity as the landlord at its sole discretion. There is no guarantee that the land exchange application will be approved, and if approved, it would be subject to such terms and conditions including, among others, the payment of premium and administrative fee as may be imposed by his department.

Traffic

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

- (a) according to the applicants' submission (**Appendix Ib**), it is noted that there is no car parking space provided for the proposed house. He objects to the application from the traffic engineering point of view; and
- (b) although additional traffic generated by the proposed development is not expected to be significant, such type of development, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial.

Environment

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

- (a) he has no objection to the planning application. In view of the small population and nature of the proposed development, septic tank and soakaway system is an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements of the Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the EPD” and are duly certified by an

Authorized Person (AP).

Nature Conservation

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

the Site is currently covered by vegetation and she has no in-principle objection to the application from nature conservation point of view.

Landscape

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

- (a) she has some reservations on the application from landscape planning perspective;
- (b) the Site is located in an area with landscape character of rural fringe, which typically comprises domestic structures, temporary structures and vegetated areas. The Site is covered with grassy vegetation without existing trees. Significant adverse landscape impact within the Site arising from the proposed use is not anticipated;
- (c) nevertheless, there is a concern that approval of the application would set an undesirable precedent and would encourage similar developments within the area. Landscape impact in term of vegetated area loss would be caused by these developments. The cumulative impact of such approval would further alter the landscape character and degrade the landscape quality of the surrounding environment within the "GB" zone; and
- (d) it is noted that there is no major public frontage along the site boundary. Should the application be approved, it is considered not necessary to impose a landscape condition.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent areas; and
- (c) there is no public sewerage near the Site within 30m.

Building Matters

10.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

there is no record of submission of the proposed building/structure to BD for approval. His advisory comments are at **Appendix III**.

Fire Safety

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

he has no in-principle objection to the application subject to water supply for firefighting and fire service installations being provided to his satisfaction. Detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans. Furthermore, the EVA provision in the Site shall comply with the standard as stipulated in Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 under the Building (Planning) Regulation 41D which is administered by the Buildings Department.

District Officer's Comments

10.1.9 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee, four Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Ping Yeung object to the application mainly on the grounds that the proposed house would cause adverse impact on the burial ground and local feng shui; and
- (b) the incumbent North District Council member of subject Constituency, the IIR and RR of Ping Che have no comment on the application.

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

- (a) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD);
- (b) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 25.9.2020, the application was published for public inspection. During the statutory public inspection period, seven public comments were received (**Appendix II**). The Chairman of Sheung Shui Rural Committee indicates no comment on the application. The Kadoorie Farm and Botanic Garden Corporation, Hong Kong Bird Watching Society, World Wide Fund For Nature Hong Kong, Designing Hong Kong Limited, a North District Council member and one individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of "GB" zone; approval of the application would set an undesirable precedent for similar applications in the area; and "destroy first, apply later" approach should be deterred.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed 1-storey house (building height not more than 3.3m) with a GFA of about 108m² at the Site falling entirely within “GB” zone. According to DLO/N, LandsD, the Site does not possess any building entitlement under the Lease. The proposed development is not in line with the planning intention for 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. The applicants have not provided strong justification in the submission for a departure from the planning intention of the “GB” zone.
- 12.2 The Site is situated in an area of rural fringe landscape character comprising village houses, temporary structures, vegetated areas and active/fallow agricultural land (**Plan A-2**). The Site is currently covered with grassy vegetation. Although significant adverse landscape impact arising from the proposed development is not anticipated, CTP/UD&L, PlanD has some reservations on the application as the approval of the application would set an undesirable precedent and would encourage similar developments within the area. These developments would affect the existing natural landscape of the area caused by the loss of vegetation. The cumulative impact of such approval would further alter the landscape character and degrade the landscape quality of the surrounding environment within the “GB” zone.
- 12.3 According to the TPB PG-No.10, there is a general presumption against development within this zone and development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. As mentioned above, the approval of the application will encourage similar house developments encroaching onto the “GB” zone leading to further degradation of the landscape quality of the surrounding environment. As such, the proposed development does not comply with TPB PG-No.10 in that it would affect the existing natural landscape of the area.
- 12.4 C for T objects to the application from traffic engineering point of view. There is no parking space provided in the proposed development and the approval of the application will set an undesirable precedent for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. Other concerned government departments consulted, including DEP, D of FS and CE/MN of DSD have no adverse comment on or no objection to the application.
- 12.5 There is no previous planning application at the Site and no similar application for house development falling within the same “GB” zone. Although there are some existing village houses and domestic structures to the north-west and south-east of the Site, these structures are existing uses tolerated under the Town Planning Ordinance.
- 12.6 Regarding the local objection conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 10.1.9 and 11 above respectively, Government departments’ comments and 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 local objection conveyed by DO(N), HAD and public comments mentioned in paragraphs

10.1.9 and 11 above respectively, the Planning Department does not support the application for the following reasons:

- (a) 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;
- (b) the proposed development does not comply with the Town Planning Board Guidelines No. 10 for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ in that there is general presumption against development in “GB” zone; and the proposed development would affect the existing natural landscape of the area; and
- (c) the approval of the application will set an undesirable precedent for similar applications within the same “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the landscape character of the area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid until 6.11.2024, 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 suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (b) the design and provision of car parking space for the proposed development to the satisfaction of the Commissioner for Transport or of the Town Planning Board; and
- (c) the submission and implementation of fire service installations and water supply proposals for firefighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

14. Decision Sought

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

14.3 Alternatively, 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 of validity of the permission should expire.

15. Attachments

Appendix I	Application Form with Attachment received on 17.9.2020
Appendix Ia	FI received on 29.10.2020
Appendix Ib	FI received on 2.11.2020
Appendix II	Public Comments
Appendix III	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Floor Plan
Drawing A-3	Elevation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**