

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TP/663

<u>Applicant</u>	Mr. WONG Ching Yuen represented by Pineberg Limited
<u>Site</u>	Lot 604 (part) in D.D. 21, Pun Shan Chau, Tai Po
<u>Site Area</u>	32.85 m ² (about)
<u>Land Status</u>	New Grant No. 22237 (a) to expire on 30.6.2047 (b) restricted to private residential purpose (restricted to two storeys with a maximum Gross Floor Area (GFA) of 195.09 m ² and a maximum site coverage of 13%)
<u>Plan</u>	Approved Tai Po Outline Zoning Plan (OZP) No. S/TP/28
<u>Zoning</u>	“Green Belt” (“GB”)
<u>Application</u>	Proposed Private Swimming Pool

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed private swimming pool at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Tai Po OZP No. S/TP/28. According to the Notes of the OZP, ‘House (other than rebuilding of New Territories Exempted House (NTEH) or replacement of existing domestic building by NTEH only)’ use in the “GB” zone requires planning permission from the Town Planning Board (the Board). In this regard, the applicant has obtained planning permissions under Applications No. A/TP/375, 389 and 495 for house development. Subsequently, the applicant applied for a private swimming pool serving the house development under Application No. A/TP/616 which was approved with condition by the Rural and New Town Planning Committee (the Committee) of the Board on 13.1.2017 (**Plan A-2**). According to the applicant, the current application is to revise the configuration and to enlarge the previously approved swimming pool (Application No. A/TP/616). The location and layout of the proposed swimming pool and the landscape master plan for the house development are shown on **Drawings A-1** to **A-3** respectively.
- 1.2 Compared with the previously approved scheme under Application No. A/TP/616, the proposed swimming pool under the current application involves an increase in site area from about 23.28 m² to 32.85 m² (about 9.57 m² larger) with no change in its base level at 45.13mPD (involving excavation of land with a depth of 1.5m).

1.3 In support of the application, the applicant has submitted application form and attachments at **Appendix I**.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the application form at **Appendix I**. They can be summarized as follows:

- (a) the occupier of the approved house development is suffering from diabetes and vision problem, and swimming is recommended to be the most suitable exercise by his doctor ;
- (b) the proposed swimming pool, as compared to the previously approved scheme, is enlarged in this application in order to accommodate one or two more persons to accompany the patient when exercising; and
- (c) the proposed swimming pool can also beautify the existing green areas and improve the quality of landscaping for the proposed house.

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

The applicant is not the “current land owner”. However, he has complied with the 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) by obtaining the owner’s consent.

4. Town Planning Board Guidelines

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

- (i) there is a general presumption against development in the “GB” zone;
- (ii) applications for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning ground. 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 NTEHs, a plot ratio up to 0.4 for residential development may be permitted;
- (iii) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application sites are in close proximity to existing villages and in keeping with the surrounding uses, and where the development is to meet the demand from indigenous villagers;
- (iv) 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;

- (v) 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;
- (vi) the proposed development should not overstrain the overall provision of Government, institution and community facilities in the general area;
- (vii) 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; and
- (viii) any proposed development on a slope or hillside should not adversely affect slope stability.

5. Previous Applications

- 5.1 The Site forms part of three previous applications (No. A/TP/375, 389 and 495) for proposed house development. Application No. A/TP/375 for a 3-storey NTEH was approved with conditions in 2006 on the grounds that the application involved rebuilding of a dilapidated house which had building entitlement and the proposed development was generally not incompatible with the surrounding rural and village environment and would not overstrain the capacity of existing and planned infrastructure. Applications No. A/TP/389 and 495 for a 2-storey house were approved with conditions by the Committee in 2007 and 2011 respectively on similar grounds as Application No. A/TP/375.
- 5.2 Part of the Site is also the subject of a previous application (No. A/TP/616) for a private swimming pool serving an approved house development with an area of about 23.28 m² (about 9.57 m² smaller than the current application and with a different configuration) with the same base level at 45.13mPD, which was approved with condition by the Committee on 13.1.2017.
- 5.3 Details of the previous applications and their locations are shown at **Appendix II** and **Plan A-2** respectively.

6. Similar Application

There is no similar application for private swimming pool within the same “GB” zone.

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

- 7.1 The Site is :
 - (a) within the garden of an approved house development currently under construction; and
 - (b) accessible via a village track.
- 7.2 The surrounding areas are predominantly rural in character comprising village houses, temporary structures and tree groups. To the north of the Site are sloping

areas. To the northwest is an area zoned “Residential (Group B)8” which is intended for medium-density residential development.

8. 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.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views are summarized as follows:

Land Administration

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

- (a) the subject lot (with a site area of about 752.5m²) is held under New Grant No. 22237 dated 20.11.2015 for private residential purpose. Any building to be erected is restricted to two storeys with a maximum GFA of 195.09m² and the maximum site coverage is 13%; and
- (b) no in-principle objection to the application for enlargement of the proposed swimming pool provided that it is not covered and to be provided at grade (sunken and levelled with the ground) and the proposal complies with the lease restrictions. A swimming pool, if covered, is accountable for site coverage and GFA calculation. Comments on the proposed residential development including the swimming pool will be provided at building plan submission stage.

Traffic

9.1.2 Comments of the Commissioner for Transport C for T):

- the application only involves construction of a swimming pool. He has no in-principle objection to the application from traffic engineering point of view.

Urban Design and Landscape

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

Urban Design

- (a) no comment on the application from urban design and visual perspectives as the proposed increase in the size of the swimming pool (i.e. area of about 23.28 m² to 32.85 m²) at the Site would not generate any adverse visual impact;

Landscape

- (b) no objection to the application from the landscape planning perspective;
- (c) the site is situated in an area of rural landscape character comprising scattered tree groups and village houses. The application is considered not entirely incompatible with the surrounding environment. The Site is under construction. Further adverse landscape impact arising from the proposed development on significant landscape resources within the Site is not anticipated; and
- (d) considering that the Site only includes the extent of the proposed swimming pool and there is inadequate space for meaningful landscape to benefit public realm, it is considered not necessary to include a landscape condition if the application is approved.

Drainage

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

- no in-principle objection to the application from public drainage viewpoint.

Building Matters

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

- (a) no in-principle objection to the application; and
- (b) the proposed works shall comply with the requirements under the Buildings Ordinance. The applicant should engage an authorized person to co-ordinate the building works, if any.

Fire Safety

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

- (a) no in-principle objection to the application subject to water supplies for fire-fighting and fire service installations being provided to his satisfaction; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans or referral from relevant licensing authority.

9.2 The following departments have no comment on the application:

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department;
- (b) Project Manager/North, Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department;

- (d) Chief Engineer/Construction, Water Supplies Department ;
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (g) District Officer (Tai Po), Home Affairs Department (DO(TP), HAD).

10. **Public Comment Received During Statutory Publication Period**

On 29.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received (**Appendix III**) from an individual objecting to the application mainly on the grounds of adverse environmental impact on the surrounding areas.

11. **Planning Considerations and Assessments**

- 11.1 The proposed private swimming pool with an area of about 32.85 m² falls within an area zoned “GB” (**Plan A-1**). The proposed development is not in line with the planning intention of “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 “GB” zone.
- 11.2 The proposed use is not incompatible with the surrounding areas which are predominantly rural in character comprising village houses, temporary structures and tree groups. The proposed swimming pool is within the garden of an approved house development (Application No. A/TP/495) which is now under construction (**Plan A-4**). There is no significant vegetation within the Site and adverse impact on landscape resources due to the proposed development is not anticipated. CTP/UD&L, PlanD and DAFC have no objection to/adverse comment on the application.
- 11.3 Since the proposed swimming pool is for private use, small in scale and to serve the residents of a house development approved by the Committee in 2011, it is unlikely to have adverse traffic, drainage, sewerage and environmental impacts on the surrounding areas. Moreover, part of the Site is the subject of a previous application (No. A/TP/616) for the same use approved by the Committee in 2017. The current application is to slightly increase the size of the swimming pool from the previously approved area of about 23.28 m² to 32.85 m² (+ 9.57 m²) with change in configuration. There are no major changes in planning circumstances at the Site and in the surroundings since the previous approval was granted. Relevant departments consulted including DLO/TP of LandsD, C for T, DEP, D of FS, CE/MN of DSD, CBS/NTW of BD and CE/C of WSD have no objection to or adverse comment on the application. In this regard, the application is generally in compliance with TPB PG-No. 10.
- 11.4 Regarding the public comment objecting to the application on the grounds as detailed in paragraph 10 above, the comments of Government departments and the planning assessments in above paragraphs are relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessments 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 17.5.2023, 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 condition of approval and advisory clauses are also suggested for Members’ reference:

Approval Condition

- the provision of fire service installations and water supplies for fire-fighting to the satisfaction of the Director of Fire Services or of the Town Planning Board.

Advisory Clauses

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

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

- the proposed development is not in line with the planning intention of the “GB” zone for the area which is to define 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.

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 condition(s) and advisory clause(s), 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(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form and attachments received on 20.3.2019
Appendix II	Previous applications
Appendix III	Public comment
Appendix IV	Recommended advisory clauses
Drawings A-1 to A-3	Location and layout of proposed swimming pool and the landscape master plan for the house development
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos