

RNTPC Paper No. A/TM-LTYYY/348
For Consideration by
the Rural and New Town
Planning Committee
on 20.4.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/TM-LTYYY/348

- Applicant** : Ms. Shi Yu-feng represented by Mr. Leung Tim-moon
- Site** : Lot 2447 S.D RP (Part) in D.D. 130, Tuen Mun, New Territories
- Site Area** : About 144 m²
- Lease** : Lot comprising “House” land and agricultural land
- Plan** : Draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTYYY/9
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed House (New Territories Exempted House)

1. The Proposal

- 1.1 The applicant, who is a non-indigenous villager, seeks planning permission to use the application site (the Site) for proposed New Territories Exempted House (NTEH) (**Plan A-1**). The Site is partially vacant with a container-converted structure at the southeast corner of the Site.
- 1.2 According to the Notes for the “GB” zone on the OZP, ‘House (other than rebuilding of NTEH or replacement of existing domestic building by NTEH permitted under the covering Notes) is a Column 2 use, which requires permission from the Town Planning Board (the Board).
- 1.3 The Site is related to a previous application (No. A/TM-LTYYY/226) covering a larger site area for the same proposed NTEH use, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 16.12.2011. The planning approval lapsed on 17.12.2015. Details of the previous application are summarized at paragraph 7 below and at **Appendix IV**.
- 1.4 A comparison of the major development parameters of the current application and the last approved application is as follows:

Major Development Parameters	Last Approved Application (A/TM-LTY/226)	Current Application	Difference
	(a)	(b)	(b) – (a)
Site Area (m ²)	978.5	About 144	-834.5
Total Floor Area (m ²)	121.4	121.4	No change
Number of Storeys	2	2	No change
Maximum Building Height (m)	7.62	8.23	+0.61
Roofed Over Area (m ²)	60.7	60.7	No change

The layout plan and vehicular access plan of the proposed NTEH are at **Drawings A-1** and **A-2** respectively.

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

- (a) Application form received on 28.2.2018 with replacement pages received on 3.4.2018 incorporated (**Appendix I**)
- (b) Email dated 29.3.2018 clarifying the vehicular access to the Site and the location of the septic tank (**Appendix Ia**)
- (c) Email dated 4.4.2018 clarifying that the applicant is a female non-indigenous villager (**Appendix Ib**)
- (d) Email dated 10.4.2018 providing further clarification and background information (**Appendix Ic**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia, Ib** and **Ic**. They can be summarized as follows:

- (a) There is an existing road connected to the Site.
- (b) No car parking space within the Site is proposed.
- (c) The Site is covered with concrete.
- (d) Due to a temporary lock up of capital by the applicant, the previously approved development was put to a halt and expired. The new application is to continue with the construction of the NTEH.
- (e) After reviewing the previous application, the previous application site area was too large for a single NTEH and that she was unable to fulfill the approval condition on submission and implementation of landscape proposal due to large scale and huge costs involved in the landscaping works.
- (f) The Site is currently partially vacant and partially being used as storage purposes. The storage will be removed for the construction of the NTEH.

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

The applicant is the sole “current land owner” of her respective lot. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

4.1 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:

- (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;
- (c) applications for NTEHs with satisfactory sewage disposal facilities and access arrangements may be approved if the application site is 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;
- (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;
- (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. Tree preservation and landscaping proposals should be provided;
- (f) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (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; and
- (h) any proposed development on a slope or hillside should not adversely affect slope stability.

4.2 A full set of the assessment criteria extracted from the TPB PG-No. 10 is at **Appendix II** for Members’ reference.

5. 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. An extract of the latest set of Interim Criteria, which was promulgated on 7.9.2007, is at **Appendix III**.

6. Background

The Site is currently not subject to planning enforcement action.

7. Previous Application

7.1 The Site is related to a previous Application No. A/TM-LTY Y/226. Details of the application is summarized in **Appendix IV** and its location is shown on **Plan A-1**.

7.2 Application No. A/TM-LTY Y/226 with a much larger site for proposed NTEH use was submitted by the same applicant, which was approved with conditions by the Committee on 16.12.2011. The major considerations included not contravening the TPB PG-No. 10; warranting exceptional and sympathetic consideration as part of the site has building status for house development; not incompatible with the character of the surrounding area given the insignificant scale and intensity of the proposed development; not involving extensive clearance of vegetation or affecting the existing natural landscape; no adverse visual and geotechnical impact; and no objection to or adverse comments from relevant government departments. The planning approval lapsed on 17.12.2015.

7.3 Compared with the last approved Application No. A/TM-LTY Y/226, the current application is submitted by the same applicant for the same use with the same footprint/location but with a substantial reduction in site area (i.e. -834.5m²) and an increase in building height (i.e. +0.61m).

8. Similar Application

8.1 There is one similar application (No. A/TM-LTY Y/3) for proposed NTEH within the same "GB" zone on the OZP. Details of the similar application is summarized at **Appendix V** and its location is shown on **Plan A-1**.

8.2 Application No. A/TM-LTY Y/3 for two houses (NTEH) was rejected by the Board on review on 9.5.1997 on grounds that the proposed development was not in line with the planning intention of the "GB" zone; no strong justification for the proposed development to deviate from the general presumption; failed to provide mitigation measures to address the potential environmental problems generated by the proposed refuse transfer station in close proximity to the application site; and approval would set an undesirable precedent.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> - Footprint of the proposed NTEH/Small House - Application site 		<p>100%</p> <p>100%</p>	
3.	Sufficient land in "V" zone to satisfy outstanding Small House applications and 10-year Small House demand?			Not applicable as the proposed development is a NTEH (not Small House) and the applicant is a female non-indigenous villager.
4.	Compatible with the planning intention of "GB" zone?		✓	<p>There is a general presumption against development within the "GB" zone.</p> <p>The Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application as the Site is an existing paved area.</p>
5.	Compatible with surrounding area/development?	✓		The proposed NTEH is not incompatible with the surrounding areas which are predominantly rural in character with residential dwellings to the east, southeast and southwest.
6.	Within Water Gathering Ground (WGG)?		✓	<p>The Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no comment on the application.</p> <p>The Site is not located within WSD WGG.</p>
7.	Encroachment onto planned road networks and public works boundaries?		✓	<p>The Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD) advises that there is no other planned public road projects initiated by TD encroached by the Site.</p> <p>The Chief Town Planner/Housing & Office Land Supply, Planning Department (CTP/HOLS, PlanD)</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				advises that the Site falls within one of the Study Sites under the “Preliminary Land Use Study for Lam Tei Quarry and the Adjoining Areas”. The study is in progress.
8.	Need for provision of fire services installations (FSIs) and emergency vehicular access (EVA)?		✓	The Director of Fire Services (D of FS) has no comment on the application. The applicant is advised to observe “New Territories Exempted Houses – A Guide to Fire Safety Requirements” published by Lands Department.
9.	Traffic impact?		✓	AC for T/NT, TD has no comment on the application from traffic engineering point of view on the condition that there is no illegal parking along Shun Tat Street.
10.	Drainage and sewerage impact?		✓	The Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection in principle to the application from public drainage point of view. The Director of Environmental Protection (DEP) has no objection to the application.
11.	Landscape impact?	✓		The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) has reservations on the application. With reference to the site photos dated 15.3.2018, and the aerial photo of 2017, it is observed that the Site is vacant and completely hard paved. Densely wooded areas of significant sized trees are found to the south of the Site. The Site is situated in an area of rural landscape character disturbed by open storage yards. Although the proposed use is not incompatible with the surrounding areas, the proposed use is considered not in line with the intention and planned use of “GB”

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				<p>zone and incompatible with the landscape character of the green belt.</p> <p>When comparing the aerial photo of 2008, 2011 and 2017, it is observed that the Site and its vicinity was originally vegetated in 2008 but has since been hard paved and operated as vehicle park without any previous planning application covered. Landscape impact has taken place.</p> <p>There is a general presumption against development in the “GB” zone, approval of the application may set an undesirable precedent likely to encourage the proliferation of similar NTEH development (without mitigation) to the vicinity. The cumulative impact of which would be the general degradation of the rural landscape character and undermine the integrity of the “GB” zone. Hence he has reservations on the application from the landscape planning perspective.</p> <p>In consideration of the space remaining after developing the NTEH, it is opined that there is no space left for any meaningful landscape treatment for screening and/or mitigation of the landscape impact and impractical to impose a landscape condition.</p>
12.	Geotechnical Impact?		✓	<p>The Head of Geotechnical Engineering Office, Civil Engineering & Development Department, H(GEO), CEDD has no in-principle geotechnical objection to the application. The applicant is reminded to submit the site formation plans to the Buildings Department for approval as required under the provisions of the Buildings Ordinance, unless the applicant wishes to apply for a certificate of</p>

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				exemption for site formation works from the Director of Lands.
13.	Local objection received from DO?		✓	The District Officer (Tuen Mun), Home Affairs Department has not received any comment from the locals upon the end of consultation period. The public comment received during the statutory publication period is at Appendix VII , see also paragraph 12 below.

11.2 Comments from the following government departments have been incorporated in paragraph 11.1 above. Details of comments from government departments are at **Appendix VI**.

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD);
- (d) Chief Town Planner/Housing & Office Land Supply, Planning Department (CTP/HOLS, PlanD);
- (e) Director of Fire Services (D of FS);
- (f) Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD);
- (g) Director of Environmental Protection (DEP);
- (h) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (i) Head of Geotechnical Engineering Office, Civil Engineering & Development Department (H(GEO), CEDD); and
- (j) District Officer (Tuen Mun), Home Affairs Department (DO(TM), HAD).

11.3 Detailed comments of the following government departments are at **Appendix VI**:

- (a) District Lands Officer/Tuen Mun, Lands Department (DLO/TM, LandsD);
- (b) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (c) Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD); and
- (e) Director of Electrical and Mechanical Services (DEMS).

11.4 The following government departments have no comment on the application:

- (a) Antiquities and Monuments Office, Leisure and Cultural Services Department (AMO, LCSD);
- (b) Chief Engineer/Project Management, Drainage Services Department (CE/PM, DSD);
- (c) Commissioner of Police (C of P);
- (d) Director of Food and Environmental Hygiene (DEFH); and
- (e) Director of Leisure and Cultural Services (DLCS).

12. Public Comment Received During Statutory Publication Period

On 9.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 3.4.2018, one public comment objecting to the application was received (**Appendix VII**). An individual objected to the application on grounds of not close to village cluster, no access to sewerage, not in line with the planning intention, undesirable precedent and encourage “destroy to build operations”.

13. Planning Considerations and Assessments

- 13.1 The Site falls entirely within “GB” zone. 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. Application for new development within “GB” zone will only be considered under exceptional circumstances. In this regard, the lot comprises about 60.7m² of “H” class land (i.e. house land). The roofed over area of the proposed NTEH (60.7m²) is the same as the area of the lot with building status. As part of the lot has building status for house development, the application may warrant exceptional and sympathetic consideration.
- 13.2 The proposed development is only for one NTEH at the Site, with a total floor area of 121.4m² and a height of 8.23m. The scale, design and layout of the proposed NTEH is compatible with the predominantly rural character of the surrounding areas, where existing residential dwellings are found to the east, southeast and southwest of the Site.
- 13.3 The proposed development does not contravene the TPB PG-No. 10 in that the application may warrant exceptional consideration as explained in paragraph 13.1 above and the proposed use is not incompatible with the surrounding areas. The proposed development also generally meets the Interim Criteria on similar considerations.
- 13.4 Relevant government departments, including DAFC, CE/C of WSD, D of FS, AC for T/NT of TD, CE/MN of DSD and DEP have no objection to or no adverse comment on the application. Whilst CTP/UD&L of the Planning Department has reservation on the application due to not in line with the intention and planned use of “GB” zone and incompatible with the landscape character of the green belt, the proposed NTEH does not involve tree felling, and a previous planning approval

for the same use had been granted to the Site having regard to the exceptional circumstances.

13.5 The Committee has approved one previous application for the same use in 2011 and the previous planning approval lapsed on 17.12.2015. Since there is no major change in the planning circumstances, approval of the current application is in line with the previous decision of the Committee.

13.6 There is one public comment received objecting to the application mainly on land use planning grounds as summarized in paragraph 12 above. The planning considerations and assessments above are relevant.

14. Planning Department's Views

14.1 Based on the assessment made in paragraph 13 above, the Planning Department has no objection to the application.

14.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 20.4.2022, 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 provision of septic tank, as proposed by the applicant, at a location to the satisfaction of the Director of Lands or of the Town Planning Board; and
- (b) the submission and implementation of drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board.

Advisory clauses

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

14.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- (a) the planning intention for 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 presumption against development within this zone. No strong planning justification is provided in the submission for a departure from the planning intention;
- (b) the applicant fails to demonstrate that the proposed development would not generate adverse landscape impacts; and
- (c) the approval of the application would not set an undesirable precedent. The cumulative impact of approving similar applications within the "GB" zone would result in a general degradation of the environment.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 15.2 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.
- 15.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

16. Attachments

Appendix I	Application form received on 28.2.2018
Appendix Ia	Email dated 29.3.2018 clarifying the vehicular access to the site and the location of the septic tank
Appendix Ib	Email dated 4.4.2018 clarifying that the applicant is a female non-indigenous villager
Appendix Ic	Email dated 10.4.2018 providing further clarification and background information
Appendix II	Extract of the Town Planning Board Guidelines for Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance (TPB PG-No. 10)
Appendix III	Relevant Revised Interim Criteria for Consideration of Application for NTEH/Small House in New Territories
Appendix IV	Previous application covering the Site
Appendix V	Similar application within the same “GB” zone on the draft Lam Tei and Yick Yuen Outline Zoning Plan No. S/TM-LTY9
Appendix VI	Detailed comments of relevant government departments concerned
Appendix VII	Public comment received during statutory publication period
Appendix VIII	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**